

5

Part फाइल सो 1/25/92- Public
File No.

खण्ड
Volume

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

Public

अनुभाग
SECTION
पत्राचार
CORRESPONDENCE

को सूचीकृत की गई
Indexed on

आद्याक्षर
Initials
अभिलेख क/ख
Record A/B

अभिलेख ग में नष्ट गए
Record C Destroyed In

नोट किया जाए अनुभागीया नोट बुक
नोट न किया जाए

To be noted In Sectional Note Book
Not to be noted

अनु. अ./अधीक्षक के हस्ताक्षर
Initials of S.O./Supdt

लिपिक के हस्ताक्षर
Initials of clerk

विषय

SUBJECT

Transfer Petition in the Supreme Court
of India under Article 139 A of the
Constitution.

Noting 1 to 5

Correspondence - 1 to 195

Total - 200

पिछले हवाले
Previous References

बाद के हवाले
Later References

1000
14/11/40





फाइल सं०
File No. 1/25/92 - Public

खण्ड
Volume

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS

का भविष्य देश का
THE GIRL CHILD

अनुभाग
Section

टिप्पणियाँ/पत्राचार
NOTES/CORRESPONDENCE

विषय
SUBJECT

TRANSFER PETITION IN THE SUPREME
COURT OF INDIA UNDER ARTICLE 139A OF
THE CONSTITUTION -

में नष्ट किए गए

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पिछले हवाले
Previous References

F. No. 1/18/92 - Public

बाद के हवाले
Later References

(A)

Part. F. No. 1/25/92-Part 1

As desired by Sh. Parmaswaran, Dy. Govt Advocate, CAS, Supreme Court, we may send a set of all the papers to enable him to draft the Transfer Petition.

Letter dictated may min

W. B. Shu
21.7.93

50. (A)

S. No. 1 (Issue) p-12/c

S. No. 2 (Receipt) p-31/c

S. No. 3 (Issue) p-41/c

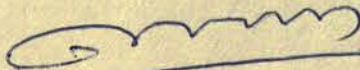
S. No. 4 (Issue) p-51/c

S. No. 5 (Issue) p-61/c

S. No. 6 (Receipt) p-71/c

Central Agency Section

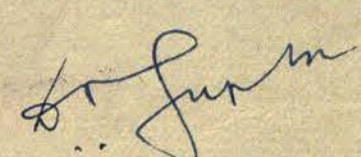
The Learned Solicitor General may kindly see and opine as to the feasibility of filing of Transfer Petition under Article 139A of the Constitution of India in the Hon'ble Supreme Court of India.


(P. PARAMESWARAN)
DY. GOVT. ADVOCATE
22.7.93

Shri Dipankar Gupta
Solicitor General of India

OFFICE OF THE SOLICITOR GENERAL OF INDIA

I agree that the issue ought to be decided by the Supreme Court. It is true that on the question of ex parte interim orders, the Supreme Court in January last declined to transfer the cases but at that stage the merits of the disputes were not in issue. The Supreme Court then felt that the contest should be in the High Court itself at the first instance. Now that the stage of interim orders is over and the merits of the dispute are pending decision in more than one High Court, we should, I feel, make another attempt to have the main matters transferred and consolidated in the Supreme Court under Article 139 A of the Constitution. Nothing will be lost in making such an attempt.


(Dipankar P. Gupta)
Solicitor General of India
27.7.1993

Shri P. Parameswaran,
Dy. Govt. Advocate,
CAS Section, Dy. No. 2655/CAS

Please take up



21/10/93
22/7

2655/CAS/93
22/7

1954/9280/c
6/9/93

2/10/93

MP 140/92 &
OP 2/10/92 (A)
(Flap 92)

✓ Flapped

✗ Slip 'B'

✗ Slip 'C'

Two writ petitions are pending in the High Courts of Madhya Pradesh (Indore Bench) and Kerala challenging the Constitutional validity of the Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. By its Order dated 25th August, 1992, the Madhya Pradesh High Court restrained the Government of India from awarding the honour of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri till further orders. However, this stay order was vacated vide Order dated 20th January, 1993, passed by the Madhya Pradesh High Court (Indore Bench).

2. After the vacation of the said stay order, there was nothing to prevent the Government of India from announcing/ conferring the Bharat Ratna and Padma series of Awards on 26th January, 1993. However, Government of India took a conscious decision that till such time as the Constitutional issue is finally resolved in the Courts, there shall be no announcement of these Awards.

3. As the issues involved in the two writ petitions pending in the Madhya Pradesh and Kerala High Courts are similar, the Central Government Advocate, Central Agency Section, Supreme Court of India was requested through the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) to draft a transfer petition and finalise the same in consultation with the Solicitor General for filing the same in the Supreme Court under Article 139A of the Constitution. The transfer petition duly drafted and settled by the Solicitor General has been received and is placed below (Slip 'A'). This transfer petition has been gone into carefully and some verbal changes have been made in so far as facts are concerned.

4. The said transfer petition duly settled by the Solicitor General may now kindly be seen for perusal before action is initiated to have this transfer petition formally filed with the Registry of Supreme Court of India.

5. It would not be out of place to mention here that our main file on the subject was referred to the Law Ministry on 9th February, 1993 and to the Central Agency Section (Ms. Subhashini), Central Government Advocate on 22nd February, 1993. All these months, this was not attended to by Ms. Subhashini and, as a result, this work had to be transferred to the Deputy Government Advocate (Shri Parmeswaran) to draft the transfer petition and expedite further follow up action which he has done and the transfer petition referred to at (Slip 'A') has been received in this Ministry. However, it is unfortunate that besides delay in drafting this transfer petition, our main file has also been lost/mis-placed in the Central Agency Section and despite sustained efforts we have not succeeded so far in retrieving the original file.

Submitted.

(V.P. Bhatia)

Under Secretary/30-8-93.

Director (Q&M & Vig.)

J.S.(A)

The transfer petition settled by us may be filed. After it is filed and admitted

✗ F.No. 1/25/92-Pub

4665/55(A)/92
1/9

an application for early hearing of the petition too will have to be filed.

~~Principal Advocate~~

1.9.93

~~AP (APC)~~

~~TS(A)~~

~~2/9~~

~~4903/1300/53~~
~~2/9~~

~~use~~
~~2/9/93~~

~~to~~
~~2/9~~
~~use (Pm) Dir (on file)~~

S. No. 7 (1862) p-8-158/c

S. No. 8 (Recd) p-159/c

The Transfer Petition drafted by Shri Parmeswaran, Deputy Government Advocate, Central Agency Section, Supreme Court and settled by the Solicitor General of India (Slip 'A') was gone through and wherever required some verbal changes were made in the settled draft of the Transfer Petition and 20 fair copies were handed over to Shri Parmeswaran, Deputy Government Advocate personally on 6th September, 1993 (pp 8-158/c). In the forwarding letter (p-8/c), a request was made for filing this Transfer Petition very urgently. Accordingly, this Transfer Petition was filed in the Supreme Court of India on 7th September, 1993 (p-159/c).

2. I had telephonic discussion with Shri Parmeswaran yesterday and impressed upon him the urgency about this Transfer Petition being heard very early either by way of Special Mention or by getting an early date for regular hearing. He promised that he would have consultation with Solicitor General in the matter and let us know. This discussion with Shri Parmeswaran became necessary because in another petition filed in the Calcutta High Court by one Shri Bijan Ghosh challenging the conferment of Bharat Ratna (posthumously) on Netaji Subhash Chandra Bose, one of the co-petitioners Shri Sushanta Kumar Mitra in his petition has made out that Bharat Ratna and other

from pre-page

Civilian Awards are titles and as such violative of Article 18(1) of the Constitution of India. He has also referred to the cancellation of institution of Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri in 1977. Nothing has so far been heard from Shri Parmeswaran. Even my efforts to contact him on telephone have not succeeded.

Submitted for information and directions.

V.P. Bhatia
14.9.93

(V.P. Bhatia)
Under Secretary (Public & Vigilance)

JS(A)

After recording the above note, I

*Settles draft
to Govt
27/9/93*

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. _____ OF 1993.
(Under Article 139-A of the Constitution of India.)

Union of India, *Rep. by the Secretary*
~~Through the Cabinet Secretary,~~
~~Cabinet Secretariat, Ministry of Home Affairs.~~
NEW DELHI.

...PETITIONER

VERSUS

1. Shri S.P. Anand,
120, Joara Compound,
INDORE
(Madhya Pradesh)
2. Shri Balaji Raghvan,
33, Panampally Nagar,
Malayala,
Manorma Jn.,
ERNAKULAM
(KERALA).

...RESPONDENTS

PETITION FOR TRANSFER UNDER
ARTICLE 139-A OF THE
CONSTITUTION OF INDIA.

To

The Hon'ble Chief Justice of India
and His Companion Justices of the
Supreme Court of India.

...2/-

The humble Petition of
the Petitioner abovenamed

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner ~~is desirous of~~ ^{prays for an}
~~obtaining~~ order of this Hon'ble Court ^{for} ~~to~~ withdrawing
(i) Original Petition No.2110 of 1992^(A), entitled Balaji
Raghavan Versus Union of India, pending in the High
Court of Kerala at Ernakulam and ^(u) Miscellaneous
Petition No.1400 of 1992, entitled S.P.Anand Versus
Union of India, pending in the High Court of Madhya
Pradesh, Jabalpur, Bench at Indore, and ^{for} ~~disposing of~~
both the ^{cases} ~~Petition~~ itself.

2. That both the above mentioned ~~Original cases~~
~~Petition and Miscellaneous Petition~~ pending before
the two different High Courts raise ~~substantially~~
the same substantial questions of law of general
importance ^{and in particular,} ~~inter alia~~, the following question :-

WHETHER Article 18(1) of the Constitution
of India debars the Government of India
from extending recognition to individual
acts of outstanding merit by way of
'orders and decorations' with the names
Bharat Ratna, Padma Vibhushan, Padam Bhushan

- 3 -

and Padma Shri, in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general ?

3. That in order to appreciate the questions involved in the present Petition, it is worthwhile to peruse Article 18 of the Constitution of India, which reads as under :-

"18. Abolition of titles:- (1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State."

4. That in the year 1948, when the Constituent Assembly was discussing various Articles of the Constitution of India, the present Article 18 of the Constitution of India ^{which} was at that time numbered as Article 12 ~~and~~ read as under :-

"No title shall be conferred by the State."

Discussions on this Article were held on 30th November, 1948 and 1st December, 1948. During discussions, the majority opinion was against the retention of titles bestowed by the British Government, but there was general agreement regarding the retention of military and academic distinctions. The Article as finally adopted and renumbered as Article 18(1) read as under :-

"No title, not being a military or academic distinction, shall be conferred by the State."

5. That the question of institution of a system of honours and awards after ^I independence was in the meantime first considered in the year 1948 by a Committee known as the Prime Minister's Committee on the institution of a system of Honours and Awards for India, headed by Shri B.N.Rau, who was then the Constitutional Adviser to the Government of India. In its first report submitted to the Prime Minister on 9th March, 1948, the Committee considered the question whether awards of any kind would be consistent with the provisions of the Article of the draft of the Constitution of India and after

consulting the Constitutions of certain other countries came to the conclusion that the expression "title" did not necessarily include all "orders and Decorations". The Committee, therefore, proceeded on the basis of this thinking that "Orders and Decorations" carrying no title were not meant to be prohibited under the Constitution of India.

6. The Government of India approved the institution of Bharat Ratna in September, 1952. In May 1953, the Government of India considered the question of instituting a medal corresponding to the "Kaiser-i-Hind" medal and decided that there should be an 'Order' to be called "The Order of the Lotus" having 3 classes viz., (i), (ii) and (iii) and that this 'Order' might be awarded for distinguished service in any field including service rendered by the Government Servants in Civil Employment.

7. That these Awards were formally instituted by issue of two Presidential Notifications No.1-Pres./54 and No.2-Pres./54 dated 2nd January, 1954, which were subsequently superseded by four notifications Nos. 1-Pres./55, 2-Pres./55, 3-Pres./55 and 4-Pres./55 dated 8th January, 1955. The purpose for which these awards ^{were to be} ~~are~~ given are as follows :-

Name of the Award

Purpose for which it is given.

Bharat Ratna

For exceptional service towards the advancement of art, literature and science and in recognition of public service of the highest order.

Padma Vibhushan	For exceptional and distinguished service in any field including service rendered by Government Servants.
Padma Bhushan	For distinguished service of a high order in any field including the service rendered by Government servants.
Padma Shri	For distinguished service in any field including service rendered by Government servants.

The aforementioned Presidential Notifications also provided that any person without distinction of race, occupation, position or sex shall be eligible for these awards and also that the ^{same} ~~decorations~~ may be awarded posthumously.

The true copies of the said Notifications dated 8th January, 1955 are enclosed herewith and are marked as ANNEXURE 'I' collectively, and *forms of Sanads referred to in the notification is ANNEXURE 'II'.*

ANNEX. 'I'
(COLLY.)
ANNEX. 'II'

8. A Press Note was issued by the Government of India on 17th April, 1968 making it abundantly clear that the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in the letter heads, invitation cards, posters, books etc., is against the scheme of the Government as these Awards are not titles and their use ^{in conjunction with} ~~along with~~ the names of individuals is contrary to the spirit of the Constitution of India which had abolished titles.

The true copy of the said Press Note dated 17th April, 1968 is enclosed herewith and is marked as ANNEX. 'III' ANNEXURE 'III'.

9. That in the Year 1969 and again in the year 1970, the late Acharya J.B.Kriplani, who was then a Member of Parliament (Lok Sabha), moved a non-official Bill in Parliament for the abolition of the Awards mentioned above. In the draft statement of Objects and Reasons appended to the said Bill, the following main points were stated ~~as follows~~ :-

- (a) Although titles have been abolished under Articles 18 of the Constitution of India, they are sought to be brought in by the backdoor in the form of decorations.
- (b) The decorations are not awarded according to merit and the Government of the day is not the best judge of the merits or eminence of the recipients.

by Government
The said Bill was opposed in the Parliament inter alia on the following grounds :-

- (i) In the Constitutions of other countries a clear distinction was drawn between titles and honours and decorations. Article 49 of the Constitution of U.S.S.R. contains separate provisions regarding the institution of decorations, honours, ~~between titles and decorations.~~

medals and titles of honours. There is thus a distinction between titles and decorations.

[omit]

(ii) Bharat Ratna and Padma Awards are decorations and not titles. Therefore, the basic assumption made by Acharyaji that the award of these decorations violates the provisions of the Constitution is not correct.

(iii) Government invites recommendations for these awards and these ^{are} processed through a very elaborate process of screening. ~~To say that Government is not correct because~~ All possible precautions are taken and only such names ^{selected} are ~~suggested~~ and accepted which are really found fit for these high awards, ~~that are given to them.~~

The said Bill when put to vote was defeated.

10. The ^{award} ~~Institution~~ of Civil Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri was cancelled vide Notification No.65-Pres./77 dated 8th August, 1977.

^A
The true copy of the said Notification dated 8th August, 1977 is attached herewith and is marked as ANNEXURE 'IV'.

ANNEX. 'IV'

11. That the Government of India revived these awards vide Notification No.25-Pres./80 dated 25th January, 1980.

^A
The true copy of the said Notification dated 25th January, 1980 is enclosed herewith and is marked as ANNEXURE 'V'.

ANNEX. 'V'

12. That in order to quell all doubts in the matter, the then Minister of Law, Justice and Company Affairs made a statement in the Lok Sabha with regard to the revival of Bharat Ratna and Padma Awards, on 30th January, 1980.

The true copy of the said statement of the Minister^{of} of Law, Justice and Company Affairs, dated 30th January, 1980 is enclosed herewith and is marked as

ANNEX. 'VI'

ANNEXURE 'VI'.

13. That the Respondent No.2 filed Original Petition No.2110 of 1992^(A) dated 12th February, 1992, in the High Court of Kerala at Ernakulam, under Article 226 of the Constitution of India ^{contending} ~~stating~~ inter alia that Bharat Ratna, Padma Vibhushan etc., make distinctions according to rank contrary to the Preamble of the Constitution which promises equality of status; that Bharat Ratna, Padma Vibhushan etc., are divided into several classes superior and inferior and holders of Bharat Ratna have been even assigned a place in the 'Warrant of Precedence' (9th place ^(sic) ~~i.e.~~ just below the Cabinet Ministers of the Union) which is usually meant for indicating the rank of different dignitaries and high officials of the State in the interests of discipline in the administration; that Bharat Ratna, Padma Shri etc., are in violation of Article 18 of the Constitution of India in spirit and in letter. The said Respondent No.2 had made ^{the} to following prayer in the said Original Petition No.2110 of 1992^(A):-

- (i) to issue writ in the nature of mandamus or other appropriate order or direction directing the Petitioner not to confer Bharat Ratna, Padma Bhushan etc., hereafter;

(ii) to grant such other reliefs as may be deemed fit and proper to the Hon'ble Court in the nature of this case and allow the Original Petition.

The true copy of the Original Petition No.2110 of 1992 A dated 12th February, 1992 is enclosed herewith and is marked as ANNEXURE 'VII'.

ANNEX.'VII'

14. That the Union of India in contest of the said Original Petition, filed Counter Affidavit dated 25th November, 1992 in the High Court of Kerala at Ernakulam, inter alia stating that conferring of the aforesaid Awards does not in any manner constitute violation of Article 18(1) of the Constitution of India; that in case of Padma Awards, there is a regular procedure for calling for recommendations from State Governments/Union Territories and other agencies and their evaluation; that only those who qualify after scrutiny at different levels, are announced on the Republic Day every year; that the Warrant of Precedence is only ^{the} order of seating for Ceremonial functions; that only the holders of Bharat Ratna are included in the Warrant of Precedence and Padma Awardees are not included in the Warrant of Precedence; that the Original Petition is liable to be dismissed.

The true copy of the said Counter Affidavit dated 25th November, 1992 to Original Petition No.2110 of 1992(A) filed in the High Court of Kerala at Ernakulam, is enclosed herewith and is marked as ANNEXURE 'VIII'.

ANNEX.'VIII'

15. That in the meanwhile the Respondent No.1 also filed similar Petition under Article 226 of the Constitution of India, in the High Court of Madhya Pradesh, Jabalpur,

Bench at Indore, ^{dated.} ~~on or about~~ 19th August, 1992, (which was registered as Miscellaneous Petition No.1400 of 1992), stating inter alia that no title including the one called 'Bharat Ratna' as stood awarded by now to 27 persons from the Year 1954 to 1992 could be conferred by the State after 26th January, 1950 in view of Article 18 of the Constitution of India; that there was no executive power available to any one to award these Awards; that these Awards had been awarded in an arbitrary manner to the Yes-men of persons who entered the high office of Prime Minister and all of them deserve to be declared as 'no Awards' at all and therefore ~~a~~ nullity ab initio. The Respondent No.1 in the said Petition prayed for the following reliefs:-

- (a) that Award of "Bharat Ratna" awarded to late Rajeev Gandhi be declared as void and nullity ab-initio.
- (b) that Awards of "Bharat Ratna", "Padma Vibhushan", "Padma Bhushan", "Padma Shri" and such other Awards like "Swatantrata Senani" (Freedom Fighter), Lalit Kala Akademi Awards, Sangeet Natak Akademi Awards, Sahitya Akademi Awards as and where such Awards are not found to be those covered by the Exception enacted in Article 18 of the Constitution of India, be declared void and a nullity ab initio directing the Petitioner to not only treat them as snatched and or never awarded at all but to recover back Public Fund if any paid to the awardees in cash or kind and where such recovery is not possible or feasible, making relevant recovery from the Prime Minister: Ministers: Officers concerned from the ^{by} Private

Please check it
✓

Holdings and possession to ensure that Rule of Law only prevail, and in particular to end the old practices where wrong doers suffer nothing recalling the words of wisdom of Judge Curtis-Raleigh in some other context but which fit herein also, which have been quoted with approval in (1972) 1 All E.R. 997 :-

"The Law should not be seen to set by limply, while those who defy it go free and those who seek its protection lose hope."

- (c) that such other reliefs as deemed fit on the issue of education and other matters as deemed fit together with costs be also granted covering unclaimed reliefs also.

The true copy of the said Miscellaneous Petition No. 1400 of 1992, dated 19th August, 1992 is enclosed herewith and is marked as ANNEXURE 'IX'.

ANNEX. 'IX'

16. That the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore vide order dated 25th August, 1992 admitted the Petition filed by the Respondent No. 1 and directed the Union of India not to Award the Honour of Bharat Ratna, Padma Vibhushan, Padma Bhushan, Padma Shri until further orders.

The true copy of the said order dated 25th August, 1992 of the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, is enclosed herewith and is marked as ANNEXURE 'X'.

ANNEX. 'X'

17. That the Union of India in contest of the said Miscellaneous Petition filed Counter Affidavit dated 25th November, 1992 in the High Court of Madhya Pradesh, Jabalpur Bench at Indore, controverting the material allegations and stating inter alia that the Awards conferred by the Government are not titles but are decorations; that there is no violation of the provisions of Article 18 of the Constitution; that Article 18(1) of the Constitution of India prohibits only conferment of titles and does not prohibit award of decorations; that all recommendations for these awards are processed through a very elaborate process of screening and all possible precautions are taken to award the decorations only to such persons who are really found fit for these high awards; that the Government has the inherent right to confer these decorations; that the Government has a duty to honour persons of exceptional or distinguished services rendered and that the Petition deserves outright rejection.

The true copy of the said Counter Affidavit dated 25th November, 1992 in reply to Miscellaneous Petition No.1400 of 1992 filed in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, is enclosed herewith and is marked as

ANNEX. 'XI'

ANNEXURE 'XI'.

18. That since there was an interim order dated 25th August, 1992 of the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore, restraining the Union of India to confer the Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri, ^{until further orders} the Union of India filed Transfer Petition under Article 139-A of the Constitution of India in this Hon'ble Court, ^{on 15th December, 1992} seeking transfer to itself and dispose of by a Common Judgment/Order Miscellaneous Petition No.1400 of 1992 pending in the High Court of Madhya Pradesh, Jabalpur,

Bench at Indore and Original Petition No.2110 of 1992(A) pending before the High Court of Kerala at Ernakulam. The said Transfer Petition was registered as Transfer Petition (Civil) Nos.6 and 7 of 1992.

19. That the said Transfer Petition was mentioned before this Hon'ble Court (Hon'ble Mr. Justice M.N.Venkatachaliah (at present Hon'ble the Chief Justice of India) and Hon'ble Mr. Justice G.N.Ray, for early listing on 8th January, 1993.

Upon motion, this Hon'ble Court took the said Transfer Petition on Board and passed the following order on 8th January, 1993 :

"UPON motion, the matter is taken on Board.

The matter arises out of an ex parte order made by the Indore Bench of the Madhya Pradesh High Court. Learned Counsel for the petitioner submits that the order which learned counsel calls an extra-ordinary one, interdicts the award of National Honours, such as Bharat Ratna etc. Petitioner's apprehension is that the Award Ceremony scheduled on the Republic Day on the 26th of January, 1993 or thereabouts should not be hampered by this ex-parte order.

But then if the petitioner is aggrieved by the ex-parte order, it is appropriate for the petitioner to move the Court to vacate it. It is not appropriate on that score to have the main matter itself withdrawn to this Court. If an application for vacating the ex-parte order is moved within three days from today, it will be appropriate for the High Court to consider and dispose of the same most

expeditiously. While we abstain from making any observations on the merits of the matter, we indicate to the High Court the need for disposal as expeditiously as possible and in any event not later than the 20th January, 1993. With these observations, the Transfer Petitions are dismissed. Liberty to mention!

20. That in pursuance to the aforesaid order of this Hon'ble Court, the Union of India moved an application before the High Court of Madhya Pradesh, Bench at Jabalpur, Bench at Indore for vacating the stay granted vide order dated 25th August, 1992, which was registered as I.A. No.367 of 1993.

21. After hearing the parties the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore, vacated the stay order dated 25th August, 1992 vide order dated 20th January, 1993.

The true copy of the order dated 20th January, 1993 of the High Court of Madhya Pradesh, Jabalpur, Bench at Indore in I.A. No.367 of 1993 is enclosed herewith and is marked as

ANNEX.'XII' ANNEXURE 'XII'.

22. That with the vacation of the Stay order by the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore, there was nothing to prevent the Government of India from announcing/conferring the 'Bharat Ratna' and Padma series of Awards on 26th January, 1993. However, the Government of India ~~took a conscious decision that till such time as the~~ *decided that in view of the pending controversy and until* the constitutional issue is finally resolved in the Courts, ~~there shall be no announcement of these Awards would be made.~~

16

(23) It is respectfully submitted that although an application for transfer of these very same cases was made by the earlier occasion to this Hon'ble Court which was declined, it would appear from the order of this Hon'ble Court dated 8th January 1993 that the ~~same~~ same was made in the context of the interim order issued by the High Court which ~~had~~ ~~not yet been~~ was pending confirmation on contest. The situation, it is submitted, is now changed and the ¹⁶considerations which were relevant at that stage no longer exist. What is now pending before the High Courts is disposal

23. (24) That the Petitioner prefers this Petition under Article 139A of the Constitution of India for transfer of Original Petition No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of 1992 pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, to this Hon'ble Court for disposal by a common Judgment/Order, inter alia on the following

G R O U N D S

- I. BECAUSE Original Application No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of 1992 pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, involve the same or substantially the same questions of law and such questions involved are substantial questions of law of general importance.
- II. BECAUSE the relief claimed by the respondents in the above mentioned two different Petitions filed in two different High Courts under Article 226 of the Constitution of India are substantially the same and the facts alleged are also substantially the same.
- III. BECAUSE it is expedient so to do for the ends of justice that the aforementioned Original Petition pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore may be withdrawn by this Hon'ble Court and disposed of by

of the main writ petitions on merits. It is submitted that the pending controversy on merits in more than one High Court detracts from the dignity ~~of the court~~ intended to attach with the awards ~~apart~~ from and it is fit and proper that the main controversy be settled finally and ~~the dispute~~ laid down by this Hon'ble Court. It is ~~for~~ in this context it is respectfully submitted that the earlier ~~for~~ order dated 8th January 1993 does not bar the making of this application.

a Common Judgment/Order as the authoratative pronouncement of this Hon'ble Court is necessary to set ^{at} rest the complications which may be caused by giving various interpretations of Article 18(1) of the Constitution of India by the different High Courts.

P R A Y E R

It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to withdraw/ transfer to this Hon'ble Court for disposal, Original Petition No.2110 of 1992(A) pending in the Court of High Court of Kerala at Ernakulam and Miscellaneous Petition No.1400 of 1992 pending before the High Court of Madhya Pradesh, Jabalpur, Bench at Indore; and/or pass any other or further order which Your Lordships may deem fit and proper in the interest of justice.

DRAWN BY:

FILED BY:

Tu. 21.8.93
TARA CHANDRA SHARMA
ADVOCATE SUPREME COURT

(P. PARAMESHWARAN)
ADVOCATE FOR THE PETITIONER

NEW DELHI,

FILED ON: August, 1993.

*Settled by
D. P. Bhat
Secretary General of India*

IN

TRANSFER PETITION (CIVIL) NO. OF 1993

Union of India ...Petitioner

Versus

Shri S.P.Anand and another ...Respondents

APPLICATION FOR STAY

To

The Hon'ble Chief Justice of India
and His Companion Justices of the
Supreme Court of India .

The humble application of
the Petitioner abovenamed

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner is desirous of obtaining stay of the proceedings in Original Petition No. 2110 of 1992, pending in the High Court of Kerala at Ernakulam and in Miscellaneous Petition No. 1400 of 1992, pending in the ~~court~~ High Court of Madhya Pradesh, Jabalpur, Bench at Indore.
2. That the Petitioner has filed Transfer Petition under Article 139-A of the Constitution of India for withdrawing Original Petition No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of 1992, pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore and for disposing of the same by this Hon'ble Court.

3. That the Petitioner craves leave of this Hon'ble Court to refer to the averments, statements and submissions made in the said Transfer Petition and is not repeating the same for the sake of brevity in this application.
4. That the Petitioner has got a very good prima facie case in its favour. The balance of convenience is also in favour of the Petitioner.
5. That in case the proceedings in the above mentioned matters are continued, the Transfer Petition filed under Article 139-A in this Hon'ble Court may become infructuous.
6. That it is in the interest of justice that the proceedings in the above mentioned matters may be stayed.

P R A Y E R

It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to grant ad interim ex parte stay of the proceedings in Original Petition No. 2110 of 1992^(A), pending in the High Court of Kerala at Ernakulam and in Miscellaneous Petition No. 1400 of 1992, pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore; and make the stay absolute after hearing the parties on notice; and / or pass any other order which Your Lordships may deem fit and proper in the interest of justice.

DRAWN BY:

Tara Chandra Sharma
TARA CHANDRA SHARMA
ADVOCATE SUPREME COURT

Filed BY;

(P. PARMESHWARAN)
ADVOCATE FOR THE PETITIONER

NEW DELHI,
Filed ~~by~~ on: August, 1993.



V.P. Bhatia,
Under Secretary(Pub. & Vig.),
Tel.No.3012421.

D.O.No.1/25/92-Public

S.No.1 20

MOST IMMEDIATE

By Sp. Messenger

गृह मंत्रालय

भारत सरकार

नार्थ ब्लॉक, नई दिल्ली-११०००१

MINISTRY OF HOME AFFAIRS

GOVERNMENT OF INDIA

NORTH BLOCK, NEW DELHI-110001

Dated: 21-7-1993.

Dear Shri Parmeswaran,

Reference my telephonic conversation of last evening regarding filing of Transfer Petition in the Supreme Court under Article 139A of the Constitution for transfer of two writ petitions filed in the Madhya & Kerala High Courts respectively challenging the Constitutional validity of the Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri.

2. As desired by you, I am sending herewith a copy of the Transfer Petition filed in the Supreme Court of India on 15th December, 1992, together with a copy of application for staying the Order dated 25th August, 1992, passed by the Madhya Pradesh High Court. I am also enclosing a copy each of the following:

- (i) Copy of Miscellaneous Petition No.1400 of 1992 filed in the Madhya Pradesh High Court (Indore Bench) by Shri S.P. Anand against the Union of India.
- (ii) Order dated 25th August, 1992, passed by the Madhya Pradesh High Court (Indore Bench) restraining Government of India from awarding the honour of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri;
- (iii) Counter-Affidavit filed on behalf of the Union of India in this Miscellaneous Petition;
- (iv) Original Petition No. 2110 of 1992(A) filed in the Kerala High Court by Shri Balaji Raghavan against the Union of India;
- (v) Counter-Affidavit filed on behalf of Union of India in this Original Petition No.2110 of 1992(A).
- (vi) Copy of the judgement dated 8th January, 1993, of the Supreme Court;
- (vii) Copy each of the three applications filed in the Madhya Pradesh High Court(Indore Bench); (filed on 9th January, 1993);
- (viii) Copy of the Order dated 20th January, 1993, passed by the Madhya Pradesh High Court(Indore Bench).

3. With the vacation of the Stay Order by the Madhya Pradesh High Court, there was nothing to prevent the Government of India from announcing/conferring the Bharat Ratna and Padma series of awards on 26th January, 1993. However, Government of India took a conscious decision that till such time as the Constitutional issue is finally resolved in the Courts, there shall be no announcement of these awards.

4. As the matter involved in the Writ Petitions in the two High Courts is very important for Government, it is essential that this matter is attended to on top priority basis and a Transfer Petition prepared

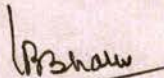
2/10/93
21/7

and finalised in consultation with the Solicitor General & Attorney General and filed in the Hon'ble Supreme Court of India as expeditiously as possible.

5. I shall be grateful to be informed of the action taken in the matter.

With regards,

Yours sincerely,



(V.P. Bhatia)

Shri P. Parmeswaran,
Deputy Government Advocate,
Central Agency Section,
Supreme Court of India Building,
New Delhi.



P.P. PRABHU
Addl. Secretary
(Tele:301 2697)

S. No. 2

22-4998/HSL93

13

मंत्रिमण्डल सचिवालय
राष्ट्रपति भवन, नई दिल्ली
CABINET SECRETARIAT
RASHTRAPATI BHAVAN
NEW DELHI

D.O.No.A.60011/58/92-Ad.I

June 28, 1993

Dear Shri Vohra,

We understand that the Madhya Pradesh High Court has, on 20.1.1993, vacated its stay orders on the conferment of Padma awards etc., in the petition, S.P. Anand Vs. Union of India under Article 226/227 of the Constitution. We further understand that Government have decided to defer the conferment of these awards till final disposal of the petition.

2. Cabinet Secretary has indicated that action may be taken to expedite the final decision of the Court in the matter.

With regards,

Yours sincerely,

(P.P. Prabhu)

Shri N.N. Vohra,
Home Secretary,
New Delhi.

jn/

1997/93-Public
26/8/93

HS In file, early

JSCA 1/7



सत्यमेव जयते

Phone: 3015785

23
S.No.3

D.O. No 1/18/92-Public

संयुक्त सचिव

गृह मंत्रालय

भारत सरकार

नार्थ ब्लॉक, नई दिल्ली-110001

JOINT SECRETARY

MINISTRY OF HOME AFFAIRS

GOVERNMENT OF INDIA

NORTH, BLOCK NEW DELHI-110001

AUGUST 26, 1993.

Dear Shri Prabhu,

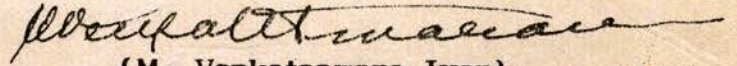
Kindly refer to your D.O. letter No. A.60011/58/92-Ad.I dated 28 June, 1993, addressed to the Home Secretary, regarding the writ petition filed in the Madhya Pradesh High Court challenging the Constitutional validity of the civilian awards of Bharat Ratna and the Padma Awards.

2. As a matter of fact, there are two writ petitions pending - the one in the Madhya Pradesh High Court and the other in the Kerala High Court. As the issue raised in both the writ petitions is substantially the same, action has been initiated to transfer both these writ petitions to the Supreme Court under article 139A of the Constitution. The draft of the transfer petition has been finally settled by the Solicitor-General and the transfer petition will be filed shortly. Thereafter, an application will also be filed for an early hearing of the matter.

3. This is for your kind information.

With regards,

Yours sincerely,


(M. Venkateswara Iyer)

Shri P.P. Prabhu,
Additional Secretary,
Cabinet Secretariat,
Rashtrapati Bhavan,
NEW DELHI.

28/8/93
29/8/93
AS

US (Prabhu)
26/8
To me

24
S.No. 4

MOST - IMMEDIATE/BY - SPL. MESSENGER

V.P. Bhatia,
Under Secretary(Pub. & Vig.),
Tel.No.3012421.

D.O.No. 1/25/92-Public

Dated: 27.8.1993.

Dear Shri Parmeswaran,

I spoke to you this afternoon regarding this Ministry's main file No.1/25/92-Public dealing with Miscellaneous Petition No.1400 of 1992 filed by Shri S.P. Anand against the Union of India in the Madhya Pradesh High Court, Bench Indore. This file was sent to Ministry of Law and Justice (received in Adv.A Section on 9th February, 1993 under their Dy. No.646/Adv.A/93). According to the information furnished by S.O. Adv.A Section this file was marked to Central Agency Section under the above Dy. No. on 22nd February, 1993 and received in the Central Agency Section on the same date and duly diarised and marked to Central Government Standing Counsel (Ms. Subhashini). As you are aware we are in need of this file for certain original references in that file for the Transfer Petition (it has already been drafted by you and sent to this Ministry after its settlement by the Solicitor General) which is to be filed in the Supreme Court under Article 139A of the Constitution. As advised by Ms. Subhashini this morning I spoke to Shri Neelakantan, Supdt. Legal about the latest position of this file. According to his version after the work relating to Home Ministry was transferred from Ms. Subhashini, a special drive was undertaken by him in the first week of July, 1993 and a number of files including the one under reference was handed over to your Assistant, Shri Gautam. However, it appears that you have not seen this file despite this claim of Shri Neelakantan. Apparently Shri Gautam has not received this file.

2. I shall be grateful if you could kindly have personal efforts made by checking up the position from Shri Neelakantan as to the date and the diary number under which this file was handed over to Shri Gautam or if this file was not handed over to Shri Gautam, the present whereabouts of this file and after its location, I may be informed on telephone whereafter I will make arrangements to have the file collected by my representative.

3. I shall be obliged for an early action in the matter and intimation thereabout to me.

With regards,

Yours sincerely,



(V.P. Bhatia)

Shri P. Parmeswaran,
Deputy Government Advocate,
Central Agency Section,
Supreme Court of India Building,
New Delhi.

Send P. Parmeswaran
27/8/93



M. VENAKTESWARA IYER

संयुक्त सचिव
JOINT SECRETARY

Phone: 3015735

D.O. No. 1/18/92-Public (Pt. 16)
भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

नार्थ ब्लॉक, नई दिल्ली-११०००१

NORTH BLOCK, NEW DELHI-110001

SEPTEMBER 3, 1993.

Dear Shri Kannan,

Please refer to your D.O. letter No. 21(2)/93-Judl. dated 21 July, 1993, regarding transfer of the two writ petitions filed in the Kerala and Madhya Pradesh High Courts challenging the Constitutional validity of the Civilian Awards of Bharat Ratna etc.

2. It is most unfortunate that our main file on the subject, which was referred to, the Central Agency Section, has been misplaced. We do not know whether the file has since been retrieved. All our original papers are on that file. For want of these papers, the payment of fees to Shri Chitale, who had been engaged to appear in the Madhya Pradesh High Court, has also been held up.

3. We shall be grateful if you will kindly ask the Central Agency Section to make a vigorous search for the file and send it back to us. Our own feeling is that the file must be among the papers with Ms. Subhashini. You may kindly speak to her and ask her to search out the file and return it.

4. In the meantime, on the basis of whatever duplicate papers we could make available to Shri Parmeshwaran, the transfer petition has been settled by the Solicitor-General, and is expected to be filed in the Supreme Court shortly.

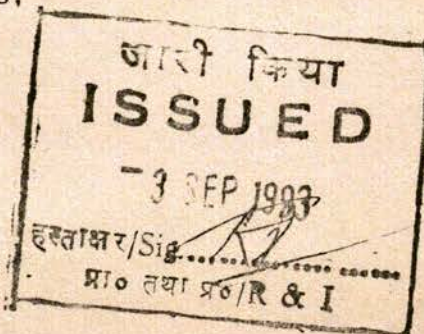
5. I would request you to kindly give this matter your urgent attention.

With regards,

Yours sincerely,

(M. Venkateswara Iyer)

Shri K.C. Kannan,
Additional Legal Adviser,
Ministry of Law, Justice & Company Affairs,
Department of Legal Affairs,
Shastri Bhavan,
NEW DELHI.



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P.C. Kannan,
Addl. Legal Adviser.

D.O.No.21(2)/93-Judl.

New Delhi, 6th September, '93.

Dear Shri Parameswaran,

photocopy of

I am enclosing herewith a D.O. letter No.1/18/92-Public(Pt.) dated 3rd September 1993 received from Shri M. Venkateswara Iyer, Joint Secy. Ministry of Home Affairs, regarding transfer of the two writ petitions filed in the Kerala and Madhya Pradesh High Courts challenging the Constitutional validity of the Civilian Awards of Bharat Ratna etc. The letter is self explanatory.

2. You are requested to take appropriate action on the above matter.

With regards.

Yours sincerely,

Scl

(P.C. Kannan)

Encl: As above.

Shri P. Parameswaran,
Deputy Govt. Advocate,
75 Lawyers Chamber,
Central Agency Section,
Supreme Court Compound,
New Delhi.

Copy to: Shri M. Venkateswara Iyer, Joint Secretary, Ministry of Home Affairs, North Block, New Delhi. He is requested to depute a well conversant Officer to meet Shri P. Parameswaran, Dy. Govt. Advocate Central Agency Section., Supreme Court Compound, New Delhi.

P.C. Kannan

(P.C. Kannan)

7/9/93

7/9/93
us. (P.C.)

7/9

To me

27
S.No.7

(8)

V.P. Bhatia,
Under Secretary(Pub. & Vig.),
Tel.No.3012421.

D.O.No.1/25/92-Public

Dated: 6-9-1993.

Dear Shri Parameswaran,

Kindly refer to Central Agency Section diary No.2027/93 dated the 18th August, 1993, forwarding therewith Transfer Petition duly settled in consultation with the Solicitor General to be filed in the Supreme Court of India under Article 139-A of the Constitution of India for transfer of Miscellaneous Petition No.1400 of 1992 filed by Shri S.P. Anand in the Madhya Pradesh High Court, Jabalpur, Bench at Indore and Original Petition No.2110 of 1992(A) filed in the High Court of Kerala by Shri Balaji Raghavan challenging the Constitutional validity of the Award of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. The Transfer Petition has been glanced through and verbal changes, wherever necessary, have been made and 20 copies of the same duly faired and complete in all respects are sent herewith for formally filing in the Registry of the Supreme Court.

2. As desired in the reference cited above, a Vakalatnama duly signed by the undersigned in your favour is enclosed. The Affidavit mentioned in item V duly sworn in by me is also enclosed. The latest address of the Petitioner and the Respondents in question, as per available records have been incorporated in the Transfer petition itself.

3. As desired a cheque for Rs.1000/- in favour of Central Agency Section, Ministry of Law, Justice & Company Affairs, Department of Legal Affairs towards Court fee and other miscellaneous expenses is enclosed (cheque No.235877 dated 6th September, 1993, drawn on the State Bank of India, Central Secretariat, New Delhi). It is requested that formal receipt in token of receipt of this cheque for Rs.1000/- may be issued in favour of Under Secretary(Cash), Ministry of Home Affairs, North Block, New Delhi.

4. I shall be grateful if further action for filing this Transfer Petition in the Supreme Court is taken very urgently and this Ministry informed of the position.

5. It is also requested that an application may also be filed requesting the Hon'ble Supreme Court for early hearing of the matter. In case an early hearing can be ensured otherwise, then such an application may not be necessary.

With regards,

Yours sincerely,

(V.P. Bhatia)

Kindly
B
6/9/93

Shri P. Parmeswaran,
Deputy Government Advocate,
Central Agency Section,
Ministry of Law, Justice & Co. Affairs,
Department of Legal Affairs,
Supreme Court of India Building, New Delhi.

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9

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. OF 1993

IN THE MATTER OF :

Union of India ..Petitioner

Versus

S.P. Anand & Anr. .. Respondents

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...Contd.(ii)

29 C10
13. ANNEXURE-XI Copy of the Counter Affidavit dated 25.11.1992 in reply to Misc. Petition No.1400 of 1992 filed in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore

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14. ANNEXURE-XII Copy of Order dated 20.1.1993 of the High Court of Madhya Pradesh, Jabalpur, Bench at Indore

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ADVOCATE FOR THE PETITIONER : P. PARMESWARAN

20

1

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. _____ OF 1993

(Under Article 139-A of the Constitution of India.)

Union of India,
Rep. by the Secretary,
Ministry of Home Affairs,
New Delhi.

...PETITIONER

VERSUS

1. Shri S.P. Anand,
120, Joara Compound,
Indore
(Madhya Pradesh)
2. Shri Balaji Raghavan,
33, Panampally Nagar,
Malayala,
Manorma Jn.,
ERNAKULAM
(KERALA).

...RESPONDENTS

PETITION FOR TRANSFER UNDER

ARTICLE 139-A OF THE

CONSTITUTION OF INDIA.

To

The Hon'ble Chief Justice of India
and His Companion Justices of the
Supreme Court of India.

The humble Petition of the
Petitioner abovenamed

MOST RESPECTFULLY SHOWETH:

1. That the Petitioner prays for an order of this Hon'ble Court for withdrawing
 - (i) Original Petition No. 2110 of 1992(A), entitled Balaji Raghavan Versus Union of India, pending in the High Court of Kerala at Ernakulam and
 - (ii) Miscellaneous Petition No. 1400 of 1992 entitled S.P. Anand Versus Union of India, pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, and for disposing of both the cases itself.
2. That both the above mentioned cases pending before the two different High Courts raise the same substantial questions of law of general importance and in paritcular, inter alia, the following question :-

WHETHER Article 18(1) of the Constitution of India debars the Government of India from extending recognition to individual acts of outstanding merit by way of 'orders and decorations' with the names Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri, in the sphere of social work, art, science and literature, to acts of gallantary in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general ?

3. That in order to appreciate the questions involved in the present Petition, it is worthwhile to peruse Article 18 of the Constitution of India, which reads as under :-

"18. Abolition of titles :-

- (1) No title, not being a military or academic distinction, shall be conferred by the State.
- (2) No citizen of India shall accept any title from any foreign State.
- (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.
- (4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State."

4. That in the year 1948, when the Constituent Assembly was discussing various Articles of the Constitution of India, the present Article 18 of the Constitution of India, which was at that time numbered as Article 12 read as under :-

"No title shall be conferred by the State."

Discussions on this Article were held on 30th November, 1948 and 1st December, 1948. During discussions, the majority opinion was against the retention of titles bestowed by the British Government, but there was general agreement regarding the retention of military and academic distinctions. The Article as finally adopted and renumbered as Article 18(1) read as under :-

"No title, not being a military or academic distinction, shall be conferred by the State."

5. That the question of institution of a system of honours and awards after Independence was in the mean time first

considered in the year 1948 by a Committee known as the Prime Minister's Committee on the institution of a system of Honours and Awards for India, headed by Shri B.N. Rau, who was then the Constitutional Adviser to the Government of India. In its first report submitted to the Prime Minister on 9th March, 1948, the Committee considered the question whether awards of any kind would be consistent with the provisions of the Article of the draft of the Constitution of India and after consulting the Constitutions of certain other countries came to the conclusion that the expression "title" did not necessarily include all "orders and decorations". The Committee, therefore, proceeded on the basis of this thinking that "Orders and Decorations" carrying no title were not meant to be prohibited under the Constitution of India.

6. The Government of India approved the institution of Bharat Ratna in September, 1952. In May, 1953, the Government of India considered the question of instituting a medal corresponding to the "Kaiser-i-Hind" medal and decided that there should be an 'Order' to be called "The Order of the Lotus" having 3 classes viz., (i), (ii) and (iii) and that this 'Order' might be awarded for distinguished service in any field including service rendered by the Government Servants in Civil employment.

7. That these Awards were formally instituted by issue of two Presidential Notifications No. 1-Pres./54 and No.2.-Pres./54 dated 2nd January, 1954, which were subsequently superseded by four notifications Nos.1-Pres/55, 2-Pres./55, 3-Pres./55 and 4-Pres./55 dated 8th January, 1955. The purpose for which these

awards were to be given are as follows :-

<u>Name of the Award</u>	<u>Purpose for which it is given</u>
Bharat Ratna	For exceptional service towards the advancement of art, literature and science and in recognition of public service of the highest order.
Padma Vibhushan	For exceptional and distinguished service in any field including service rendered by Government servants.
Padma Bhushan	For distinguished service of a high order in any field including the service rendered by Government servants.
Padma Shri	For distinguished service in any field including service rendered by Government servants.

The aforementioned Presidential Notifications also provided that any person without distinction of race, occupation, position or sex shall be eligible for these awards and also that the same may be awarded posthumously.

True copies of the said Notifications dated 8th January, 1955 are enclosed herewith and are marked as ANNEXURE 'I' collectively and forms of Sanads referred to in the Notifications as ANNEXURE 'II'.

ANNEX.'I'
(COLLY.)
ANNEX.II.

8. A Press Note was issued by the Government of India on 17th April, 1968 making it abundantly clear that the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in the letter heads, invitation cards, posters, books, etc., is against the scheme of the Government as

these Awards are not titles and their use in conjunction with the names of individuals is contrary to the spirit of the Constitution of India which had abolished titles.

A true copy of the said Press Note dated 17th April, ANNEX. 'III' 1968 is enclosed herewith and is marked as ANNEXURE 'III'.

9. That in the Year 1969 and again in the year 1970, the late Acharya J.B. Kriplani, who was then a Member of Parliament (Lok Sabha), moved a non-official Bill in Parliament for the abolition of the Awards mentioned above. In the draft statement of Objects and Reasons appended to the said Bill, the following main points were stated :-

- (a) Although titles have been abolished under Article 18 of the Constitution of India, they are sought to be brought in by the backdoor in the form of decorations.
- (b) The decorations are not awarded according to merit and the Government of the day is not the best judge of the merits or eminence of the recipients.

The said Bill was opposed in the Parliament by Government inter alia on the following grounds :-

- (i) In the Constitutions of other countries a clear distinction was drawn between titles and honours or decorations. Article 49 of the Constitution of U.S.S.R. contains separate provisions regarding the institution of decorations, honours, medals and

titles of honours. There is thus a distinction between titles and decorations.

(ii) Bharat Ratna and Padma Awards are decorations and not titles. Therefore, the basic assumption made by Acharyaji that the award of these decorations violates the provisions of the Constitution is not correct.

(iii) Government invites recommendations for these awards and these are processed through a very elaborate process of screening. All possible precautions are taken and only such names are selected and accepted which are really found fit for the high awards.

The said Bill when put to vote was defeated.

10. The award of Civil Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri was cancelled vide notification No. 65-Pres./77 dated 8th August, 1977.

ANNEX. 'IV' A true copy of the said Notification dated 8th August, 1977 is attached herewith and is marked as ANNEXURE 'IV'.

11. That the Government of India revived these awards vide Notification No. 25-Pres./80 dated 25th January, 1980.

ANNEX. 'V' A true copy of the said Notification dated 25th January, 1980 is enclosed herewith and is marked as ANNEXURE 'V'.

12. That in order to quell all doubts in the matter, the then Minister of Law, Justice and Company Affairs made a

statement in the Lok Sabha with regard to the revival of Bharat Ratna and Padma Awards on 30th January, 1980.

A true copy of the said statement of the Minister of Law, Justice and Company Affairs, dated 30th January, 1980 is enclosed herewith and is marked as ANNEXURE 'VI'.

ANNEX.'VI'

13. That the Respondent No.2 filed Original Petition No. 2110 of 1992 (A) dated 12th February, 1992, in the High Court of Kerala at Ernakulam, under Article 226 of the Constitution of India contending inter alia that Bharat Ratna, Padma Vibhushan etc., make distinctions according to rank contrary to the Preamble of the Constitution which promises equality of status; that Bharat Ratna, Padma Vibhushan etc., are divided into several classes superior and inferior and holders of Bharat Ratna have been even assigned a place in the "Warrant of Precedence" (9th place (sic) i.e. just below the Cabinet Ministers of the Union) which is usually meant for indicating the rank of different dignitaries and high officials of the State in the interests of discipline in the administration; that Bharat Ratna, Padma shri etc., are in violation of Article 18 of the Constitution of India in spirit and in letter. The said Respondent No. 2 had made the following prayers in the said Original Petition No. 2110 of 1992(A) :-

- (i) to issue writ in the nature of mandamus or other appropriate order or direction directing the Petitioner not to confer Bharat Ratna, Padma Bhushan etc., hereafter;
- (ii) to grant such other reliefs as may be deemed fit

and proper to the Hon'ble Court in the nature of this case and allow the Original Petition.

A true copy of the Original Petition No. 2110 of 1992 (A) dated 12th February, 1992 is enclosed herewith and is marked

ANNEX.'VII' as ANNEXURE 'VII'.

14. That the Union of India in contest of the said Original Petition, filed Counter Affidavit dated 25th November, 1992 in the High Court of Kerala at Ernakulam, inter alia stating that conferring of the aforesaid Awards does not in any manner constitute violation of Article 18(1) of the Constitution of India; that in case of Padma Awards, there is a regular procedure for calling for recommendations from State Governments/Union Territories and other agencies and their evaluation; that only those who qualify after scrutiny at different levels, are announced on the Republic Day every year; that the Warrant of Precedence is only the order of seating for Ceremonial functions; that only the holders of Bharat Ratna are included in the Warrant of Precedence and Padma Awardees are not included in the Warrant of Precedence ; that the Original Petition is liable to be dismissed.

A true copy of the said Counter Affidavit dated 25th November, 1992 to Original Petition No. 2110 of 1992(A) filed in the High Court of Kerala at Ernakulam, is enclosed

ANNEX.'VIII' herewith and is marked as ANNEXURE 'VIII'.

15. That in the meanwhile the Respondent No. 1 also filed similar Petition under Article 226 of the Constitution of India, in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore,

dated 19th August, 1992, (which was registered as Miscellaneous Petition No. 1400 of 1992), stating inter alia that no title including the one called 'Bharat Ratna' as stood awarded by now to 27 persons from the Year 1954 to 1992 could be conferred by the State after 26th January, 1950 in view of Article 18 of the Constitution of India; that there was no executive power available to any one to award these Awards; that these Awards had been awarded in an arbitrary manner to the Yes-man of persons who entered the high office of Prime Minister and all of them deserve to be declared as 'no awards' at all and therefore nullity ab initio. The Respondent No. 1 in the said Petition prayed for the following reliefs :-

- (a) that Award of "Bharat Ratna", awarded to late Rajiv Gandhi be declared as void and nullity ab-initio.
- (b) that Awards of "Bharat Ratna", "Padma Vibhushan", "Padma Bhushan", "Padma Shri" and such other Awards like "Swatantrata Senani" (Freedom Fighter), Lalit Kala Akademi Awards, Sangeet Natak Akademi Awards, sahitya Akademi Awards as and where such Awards are not found to be those covered by the Exception enacted in Article 18 of the Constitution of India, be declared void and a nullity ab initio directing the Petitioner to not only treat them as snatched and or never awarded at all but to recover back Public Fund if any paid to the awardees in cash or kind and where such recovery is not possible or feasible, making relevant recovery from the Prime Minister: Ministers: Officers concerned from their Private Holdings and

possession to ensure that Rule of Law only prevails and in particular to end the old practices where wrong doers suffer nothing recalling the words of wisdom of Judge Curits-Raleigh in some other context but which fit herein also, which have been quoted with approval in (1972) 1 All E.R.997 :-

"The Law should not be seen to sit by limply, while those who defy it go free and those who seek its protection lose hope."

- (c) that such other reliefs as deemed fit on the issue of education and other matters as deemed fit together with costs be also granted covering unclaimed reliefs also.

A true copy of the said Miscellaneous Petition No. 1400 of 1992, dated 19th August, 1992 is enclosed herewith and is ANNEX. 'IX' marked as ANNEXURE 'IX'

16. That the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore vide order dated 25th August, 1992 admitted the Petition filed by the Respondent No. 1 and directed the Union of India not to Award the Honour of Bharat Ratna, Padma Vibhushan, Padma Bhushan, Padma Shri until further orders.

A true copy of the said order dated 25th August, 1992 of the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, ANNEX. 'X' is enclosed herewith and is marked as ANNEXURE 'X'

17. That the Union of India in contest of the said Miscellaneous Petition filed Counter Affidavit dated 25th November, 1992 in the High Court of Madhya Pradesh, Jabalpur,

Bench at Indore, controverting the material allegations and stating inter alia that the Awards conferred by the Government are not titles but are decorations; that there is no violation of the provisions of Article 18 of the Constitution; that Article 18(1) of the Constitution of India prohibits only conferment of titles and does not prohibit award of decorations; that all recommendations for these awards are processed through a very elaborate process of screening and all possible precautions are taken to award the decorations only to such persons who are really found fit for these high awards; that the Government has the inherent right to confer these decorations; that the Government has a duty to honour persons of exceptional or distinguished services rendered and that the Petition deserves outright rejection.

A true copy of the said Counter Affidavit dated 25th November, 1992 in reply to Miscellaneous Petition No. 1400 of 1992 filed in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, is enclsod herewith and is marked as ANNEXURE 'XI'

ANNEX.'XI'

18. That since there was an interim order dated 25th August, 1992 of the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore, restraining the Union of India to confer the Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri until further orders, the Union of India filed Transfer Petition under Article 139-A of the Constitution of India in this Hon'ble Court on 15th December, 1992, seeking transfer to itself and dispose of by a Common Judgement/Order Miscellaneous Petition No. 1400 of 1992 pending in the High Court

of Madhya Pradesh, Jabalpur, Bench at Indore and Original Petition No. 2110 of 1992(A) pending before the High Court of Kerala at Ernakulam. The said Transfer Petition was registered as Transfer Petition (Civil) Nos. 6 and 7 of 1992.

19. That the said Transfer Petition was mentioned before this Hon'ble Court (Hon'ble Mr. Justice M.N. Venkatachaliah (at present Hon'ble the Chief Justice of India) and Hon'ble Mr. Justice G. N. Ray, for early listing on 8th January, 1993.

Upon motion, this Hon'ble Court took the said Transfer Petition on Board and passed the following order on 8th January, 1993 :

"Upon motion, the matter is taken on Board.

The matter arises out of an ex parte order made by the Indore Bench of the Madhya Pradesh High Court. Learned Counsel for the petitioner submits that the order which learned counsel calls an extra-ordinary one, interdicts the award of National Honours, such as Bharat Ratna etc. Petitioner's apprehension is that the Award Ceremony scheduled on the Republic Day on the 26th of January, 1993 or thereabouts should not be hampered by this ex-parte order.

But then if the petitioner is aggrieved by the ex-parte order, it is appropriate for the petitioner to move the Court to vacate it. It is not appropriate on that score to have the main matter itself withdrawn to this Court. If an application for vacating the ex-parte order is moved within three days from today, it will be appropriate for the High Court to consider and dispose of the same most expeditiously. While we abstain from making any observations on the merits of the matter, we indicate to the High Court the need for disposal as expeditiously as possible and in any event not later than the 20th January, 1993. With these observations, the Transfer Petitions are dismissed. Liberty to mention".

20. That in pursuance to the aforesaid order of this Hon'ble Court, the Union of India moved an application before the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, for

vacating the stay granted vide order dated 25th August, 1992, which was registered as I.A. No. 367 of 1993.

21. After hearing the parties the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore, vacated the stay order dated 25th August, 1992 vide order dated 20th January, 1993.

A true copy of the order dated 20th January, 1993 of the High Court of Madhya Pradesh, Jabalpur, Bench at Indore in I.A. No. 367 of 1992 is enclosed herewith and is marked as

ANNEX. 'XII' ANNEXURE 'XII'

22. That with the vacation of the Stay order by the learned High Court of Madhya Pradesh, Jabalpur, Bench at Indore, there was nothing to prevent the Government of India from announcing/conferring the 'Bharat Ratna' and Padma series of Awards on 26th January, 1993. However, the Government of India decided that in view of the pending controversy and until the constitutional issue is finally resolved in the Courts, no announcement of these Awards would be made.

23. It is respectfully submitted that although an application for transfer of these very same cases was made by the earlier occasion to this Hon'ble Court which was declined, it would appear from the order of this Hon'ble Court dated 8th January, 1993 that the same was made in the context of the interim order issued by the High Court which was pending confirmation on contest. The situation, it is submitted is now changed and the considerations which were relevant at that stage no longer exist. What is now pending before the High Courts is

disposal of the main writ petitions on merits. It is submitted that the pending controversy on merits in more than one High Court detracts from the dignity intended to attach with the awards and it is fit and proper that the main controversy be settled finally and the law be laid down by this Hon'ble Court. In this context it is respectfully submitted that the earlier order dated 8th January, 1993 does not bar the making of this application.

24. That the Petitioner prefers this Petition under Article 139-A of the Constitution of India for transfer of Original Petition No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of 1992 pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, to this Hon'ble Court for disposal by a common Judgement/Order, inter alia on the following

G R O U N D S

- I. BECAUSE Original Application No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of 1992 pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, involve the same or substantially the same questions of law and such questions involved are substantial questions of law of general importance.
- II. BECAUSE the relief claimed by the respondents in the above mentioned two different Petitions filed in two different High Courts under Article 226 of the Constitution of India

are substantially the same and the facts alleged are also substantially the same.

III. BECAUSE it is expedient so to do for the ends of justice that the aforementioned Original Petition pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore, may be withdrawn by this Hon'ble Court and disposed of by a Common Judgement/Order as the authoritative pronouncement of this Hon'ble Court is necessary to set at rest the complications which may be caused by giving various interpretations of Article 18(1) of the Constitution of India by the different High Courts.

P R A Y E R

It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to withdraw/transfer to this Hon'ble Court for disposal, Original Petition No. 2110 of 1992(A) pending in the Court of High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of 1992 pending before the High Court of Madhya Pradesh, Jabalpur, Bench at Indore; and/or pass any other or further order which Your Lordships may deem fit and proper in the interest of justice.

DRAWN BY :

TARA CHANDRA SHARMA
ADVOCATE SUPREME COURT

NEW DELHI,

FIELD ON :

FILED BY:

(P. PARMESWARAN)
ADVOCATE FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.

OF 1993

Union of India

....Petitioner

Versus

S/Shri S.P. Anand
and
Balaji Raghavan

...Respondents

A F F I D A V I T

I, V.P. Bhatia, Under Secretary, Ministry of Home Affairs, North Block, New Delhi- 110 001, do hereby solemnly affirm and declare as under :-

That I have gone through the accompanying Transfer Petition/ Application for stay, and with reference thereto say that what is stated therein is true and correct on the basis of information derived from the record of the case.

That the petitioner herein has not filed any other petition.

That the Annexures are true and correct copies of their respective originals.

VERIFIED AT NEW DELHI:

Dated this the

DEPONENT

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
I.A.NO.

IN
TRANSFER PETITION (CIVIL) NO. OF 1993
Union of India ...Petitioner
Versus
Shri S. P. Anand and another ...Respondents

APPLICATION FOR STAY

To

The Hon'ble Chief Justice of India
and His Companion Justices of the
Supreme Court of India.

The humble application of
the Petitioner abovenamed

MOST RESPECTFULLY SHOWETH :

1. That the Petitioner is desirous of obtaining stay of the proceedings in Original Petition No. 2110 of 1992(A), pending in the High Court of Kerala at Ernakulam and in Miscellaneous Petition No. 1400 of 1992, pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore.

2. That the Petitioner has filed Transfer Petition under Article 139-A of the Constitution of India for withdrawing Original Petition No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and Miscellaneous Petition No. 1400 of

1992, pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore and for disposing of the same by this Hon'ble Court.

3. That the Petitioner craves leave of this Hon'ble Court to refer to the averments, statements and submissions made in the said Transfer Petition and is not repeating the same for the sake of brevity in this application.

4. That the Petitioner has got a very good prima facie case in its favour. The balance of convenience is also in favour of the Petitioner.

5. That in case the proceedings in the above mentioned matters are continued, the Transfer Petition filed under Article 139-A in this Hon'ble Court may become infructuous.

6. That it is in the interest of justice that the proceedings in the above mentioned matters may be stayed.

P R A Y E R

It is, therefore, most respectfully prayed that Your Lordships may graciously be pleased to grant ad interim ex-parte stay of the proceedings in Original Petition No. 2110 of 1992(A) pending in the High Court of Kerala at Ernakulam and in Miscellaneous Petition No. 1400 of 1992, pending in the High Court of Madhya Pradesh, Jabalpur, Bench at Indore; and make the stay absolute after hearing the parties on notice; and / or pass

any other order which Your Lordships may deem fit and proper in the interest of justice.

DRAWN BY :

TARA CHANDRA SHARMA
ADVOCATE SUPREME COURT

NEW DELHI,

FIELD ON :

FILED BY:

(P. PARMESWARAN)
ADVOCATE FOR THE PETITIONER

STATUTES AND RULES RELATING TO THE AWARDS OF BHARAT RATNA, PADMA VIBHUSHAN, PADMA BHUSHAN AND PADMA SHRI.

The following is a reprint of Notification Nos. 1-Pres./55, 2-Pres/55, 3-Pres/55 and 4-Pres/55, dated 8th January, 1955, as amended upto 1st January, 1969.

OFFICE OF THE SECRETARY TO THE PRESIDENT.

NOTIFICATION

New Delhi, the 8th January, 1955.

No. 1-Pres./55—The President is pleased to make the following revised regulations for the award of the decoration BHARAT RATNA in supersession of those published in Notification No. 1-Pres./54, dated the 2nd January, 1954:—

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.

2. The decoration shall be in the form of a Peepul leaf, two and five-sixteenth inches in length, one and seven-eighth inches at its greatest breadth and one-eighth of an inch in thickness. It shall be of toned bronze. On its obverse shall be embossed a replica of the Sun five-eighths of an inch in diameter with rays spreading out from five-sixteenths of an inch to half an inch from the centre of the Sun, below which shall be embossed the words BHARAT RATNA in Hindi. On the reverse shall be embossed the State Emblem and motto in Hindi. The Emblem (but not the motto), the Sun and the rim shall be of platinum. The inscriptions shall be of @burnished bronze.

3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn round the neck by a white riband %one and a half inches in width.

5. The decoration shall be awarded for exceptional service towards the advancement of Art, Literature and Science, and in recognition of public service of the highest order.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons, upon whom the decoration is conferred, shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

*9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the BHARAT RATNA, and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

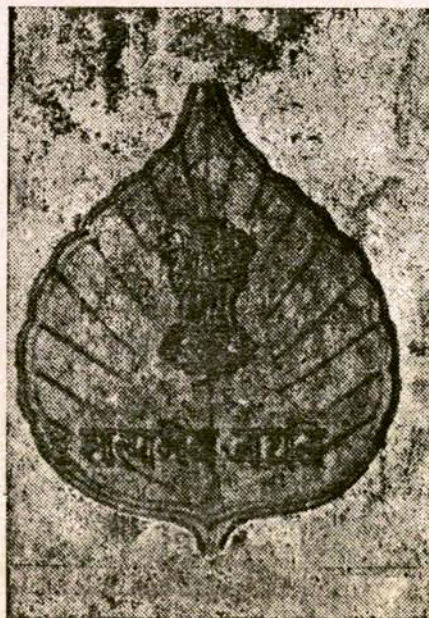
11. All persons upon whom the decoration BHARAT RATNA was conferred under the Regulations issued with Notification No. 1-Pres/54, dated the 2nd January, 1954, shall, for all purposes of these Regulations, be deemed to be persons on whom the decoration BHARAT RATNA has been conferred by the President.

ANNEXURE BHARAT RATNA

Obverse



Reverse



@Inserted vide President's Sectt. notification No. 6-Pres/57, dated 26th January, 1957.

% Substituted vide President's Sectt. notification No. 10-Pres/56, dated 20th February, 1956.

* Inserted vide President's Sectt. notification No. 27-Pres/56, dated 10th September, 1956.

No. 2-Pres/55—The President is pleased to make the following revised regulations for the award of the decoration PADMA VIBHUSHAN in supersession of those published in Notification No. 2-Pres/54, dated the 2nd January, 1954:—

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.

2. The decoration shall be mainly circular in design, with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word VIBHUSHAN placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. @The inscription PADMA VIBHUSHAN on the obverse of the decoration, the geometrical pattern on either side and the border around the periphery, shall be of burnished bronze. All embossing on either side of the decoration shall be of white gold.

3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn by men on the left breast, suspended from a plain lotus pink riband one and a quarter inches in width; and by women on the left shoulder, suspended from a riband of the same colour and width fashioned into a bow.

5. The decoration shall be awarded for exceptional and distinguished service in any field including service rendered by Government servants.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons, upon whom the decoration is conferred, shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

*9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the PADMA VIBHUSHAN, and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

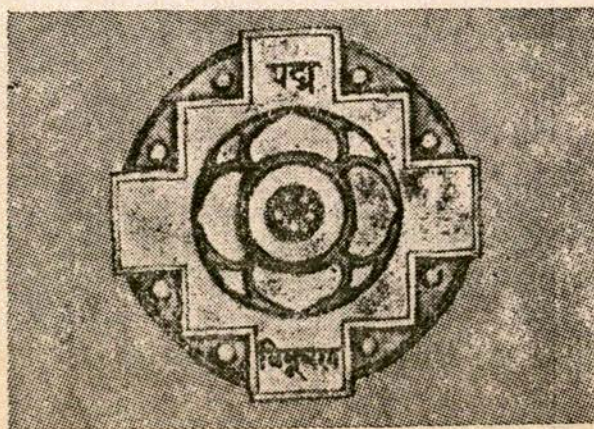
11. All persons upon whom the decoration of PADMA VIBHUSHAN (PAHELA VARG) was conferred under the Regulations issued with Notification No. 2-Pres/54, dated the 2nd January, 1954, shall, for all purposes of these regulations, be deemed to persons on whom the decoration of PADMA VIBHUSHAN has been conferred by the President.

ANNEXURE

Obverse

Reverse

PADMA VIBHUSHAN



@Substituted vide President's Sectt. notification No. 7-Pres/57, dated 26th January, 1957.

* Inserted vide President's Sectt. notification No. 26-Pres/55, dated 30th August, 1955.

No. 3-Pres/55—The President is pleased to make the following revised regulations for the award of the decoration **PADMA BHUSHAN** in supersession of those published in Notification No. 2-Pres/54, dated the 2nd January, 1954:—

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.

2. The decoration shall be mainly circular in design, with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word **PADMA** placed above and the word **BHUSHAN** placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. @The inscription **PADMA BHUSHAN** on the obverse of the decoration, the geometrical pattern on either side and the border around the periphery, shall be of burnished bronze. All embossing on either side of the decoration shall be of standard gold.

3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn by men on the left breast, suspended from a plain lotus pink riband one and a quarter inches in width, with a broad white stripe in the middle; and by women on the left shoulder, suspended from a riband of the same colour and width, fashioned into a bow.

5. The decoration shall be awarded for distinguished service of a high order in any field including service rendered by Government servants.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons, upon whom the decoration is conferred, shall be published in the Gazette of India and a register of all such recipients of the award shall be maintained under the direction of the President.

*9 The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the **PADMA BHUSHAN**, and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

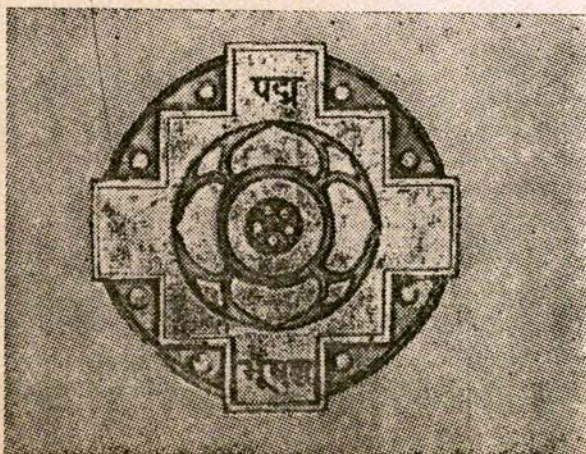
11. All persons upon whom the decoration of **PADMA VIBHUSHAN (DUSRA VARG)** was conferred under the Regulations issued with Notification No. 2-Pres/54, dated the 2nd January, 1954, shall, for all purposes of these regulations, be deemed to persons on whom the decoration of **PADMA BHUSHAN** has been conferred by the President.

ANNEXURE

Obverse

Reverse

PADMA BHUSHAN



@Substituted vide President's Sectt. notification No. 8-Pres/57, dated 26th January, 1957.

* Inserted vide President's Sectt. notification No. 27-Pres/55, dated 30th August, 1955.

No. 4-Pres/55—The President is pleased to make the following revised regulations for the award of the decoration **PADMA SHRI** in supersession of those published in Notification No. 2-Pres/54, dated the 2nd January, 1954:—

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.

2. The decoration shall be mainly circular in design, with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting beyond the rim thereby breaking the circumference of the circular design of the decoration. A knot shall be embossed within each of the outer angles of the geometrical pattern towards the rim. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word **PADMA** placed above and the word **SHRI** placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. @The inscription **PADMA SHRI** on the obverse of the decoration, the geometrical pattern on either side and the border around the periphery, shall be of burnished bronze. All embossing on either side of the decoration shall be of stainless steel.

3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn by men on the left breast, suspended from a lotus pink riband one and a quarter inches in width with two narrow white stripes each a quarter inch distant from the edges of the riband; and by women on the left shoulder, suspended from a riband of the same colour and width fashioned into a bow.

5. The decoration shall be awarded for distinguished service in any field including service rendered by Government servants.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons, upon whom the decoration is conferred, shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

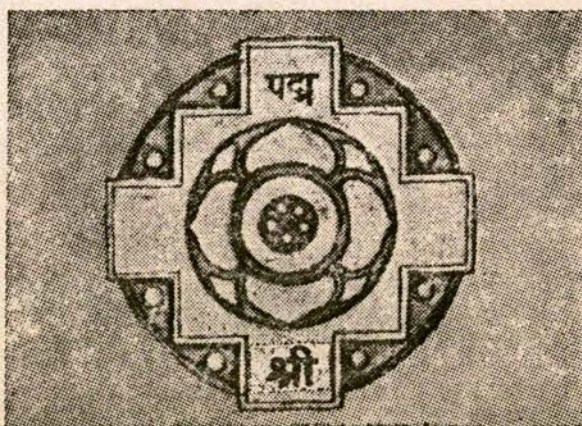
*9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the **PADMA SHRI** and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the Register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

11. All persons upon whom the decoration of **PADMA VIBHUSHAN (TISRA VARG)** was conferred under the Regulations issued with Notification No. 2-Pres/54, dated the 2nd January, 1954, shall, for all purposes of these regulations, be deemed to persons on whom the decoration of **PADMA SHRI** has been conferred by the President.

ANNEXURE **PADMA SHRI**

Obverse

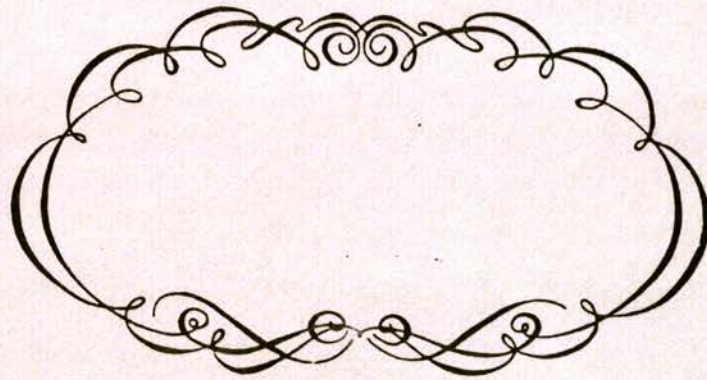


Reverse



@Substituted vide President's Sectt. notification No. 9-Pres/57, dated 26th January, 1957.

* Inserted vide President's Sectt. notification No. 28-Pres/55, dated 30th August, 1955.

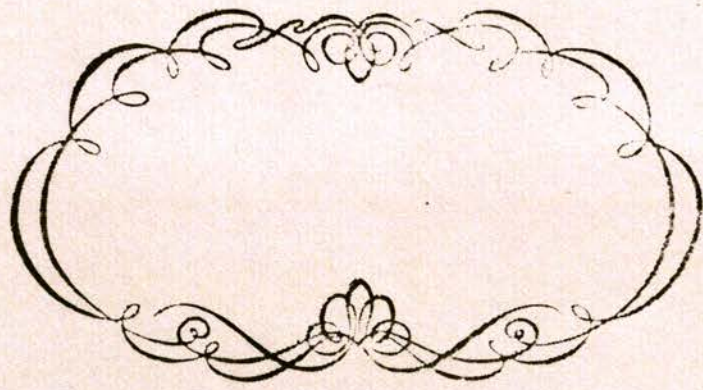


मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
भारत रत्न प्रदान करता हूँ ।

नई दिल्ली
दिनांक

राष्ट्रपति

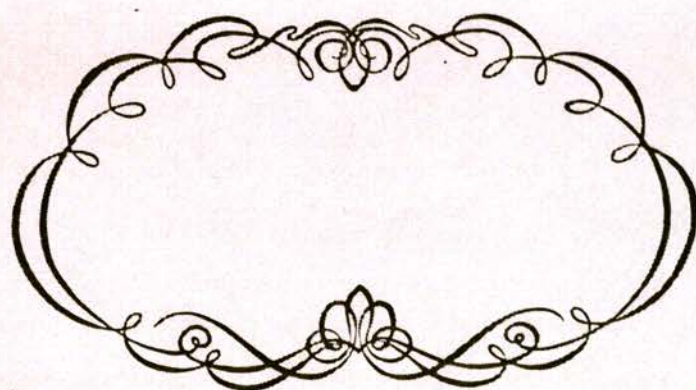




मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म विभूषण प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति

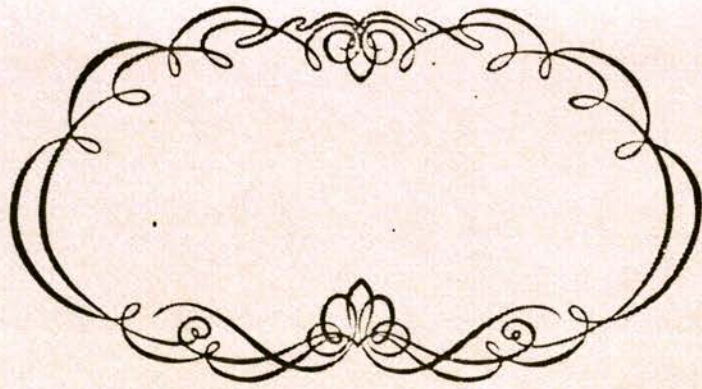


मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म भूषण प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति





मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म श्री प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति



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(39)

ANNEXURE-III

GOVERNMENT OF INDIA
PRESS INFORMATION BUREAU

29

PRESS NOTE

The attention of the Union Home Ministry has been drawn to the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letter heads, invitation cards, posters, books, etc. The awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution, which has abolished titles. It is, therefore, desirable that no Civilian Award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Union Ministry of Home Affairs
New Delhi, Chaitra 28, 1890/April 17, 1968

-.-.-.-

(Article 18 of the Constitution of India says :
(1) "No titles, not being a military or academic distinctions, shall be conferred by the State: (2) No citizen of India shall accept any title from foreign State: (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.....").

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TO BE PUBLISHED IN PART I, SECTION 1 OF THE GAZETTE
OF INDIA OF SATURDAY THE 20TH AUGUST, 1977.

PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi, the 8th August, 1977.

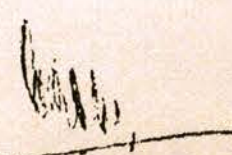
No. 65 - Pres/77 - The President is pleased to direct that the following Civilian Awards instituted in 1955 and published in Part I, Section 1 of the Gazette of India vide President's Secretariat Notifications No.1-Pres/55, No.2-Pres/55, No.3-Pres/55 and No.4-Pres/55 dated 8th January, 1955 be cancelled:-

Bharat Ratna

Padma Vibhushan

Padma Bhushan

Padma Shri


(K.C. Madappa)
Secretary to the President

शनिवार, दिनांक 20 अगस्त, 1977 के भारतीय राजपत्र के भाग I, खण्ड I में प्रकाशनार्थ ।

राष्ट्रपति सचिवालय

अधिसूचना

नई दिल्ली, दिनांक 8 अगस्त, 1977

सं० 65-प्रेज़/77 - राष्ट्रपति सहर्ष निर्देश देते हैं कि 1955 में संस्थापित निम्नलिखित नागरिक उपाधियाँ जिन्हें भारतीय राजपत्र के भाग I, खण्ड I में राष्ट्रपति सचिवालय की अधिसूचनाओं, सं० 1-प्रेज़/55, सं० 2-प्रेज़/55, सं० 3-प्रेज़/55 और सं० 4-प्रेज़/55, दिनांक 8 जनवरी, 1955, के अधीन प्रकाशित किया गया था, रद्द कर दी जायें :-

भारत रत्न
पद्म विभूषण
पद्म भूषण
पद्म श्री

के. सी. मादप्पा

(के० सी० मादप्पा)

राष्ट्रपति के सचिव ।

TO BE PUBLISHED AS A GAZETTE OF INDIA (EXTRAORDINARY) IN PART I
SECTION 1 OF FRIDAY, THE 25TH JANUARY, 1980


PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi, the 25th January, 1980.

No.25-Pres./80 - The President is pleased to cancel the President's Secretariat Notification No.65-Pres./77, dated the 8th August, 1977 by which the Civilian Awards 'Bharat Ratna', 'Padma Vibhushan', 'Padma Bhushan' and 'Padma Shri' were cancelled and to direct that the said Awards shall be re-instituted with immediate effect.

2. The President is also pleased to direct that the said Notification shall not be deemed to have affected in any manner whatsoever the Awards mentioned therein which were granted, before the issue of that Notification.


(K.C. MADAPPA)
Secretary to the President

शुक्रवार, 25 जनवरी, 1980 के भारत के (असाधारण) राजपत्र के भाग I, खंड I में

प्रकाशनार्थ ।

राष्ट्रपति सचिवालय

अधिसूचना

नई दिल्ली, दिनांक 25 जनवरी, 1980.

संख्या 25-प्रेज/80 - राष्ट्रपति, राष्ट्रपति सचिवालय को तारीख 8 अगस्त, 1977 की अधिसूचना संख्या 65-प्रेज/77 को रद्द करते हैं, जिसके द्वारा 'भारत रत्न', 'पद्म विभूषण', 'पद्म भूषण', 'पद्म श्री' नागरिक उपाधियाँ रद्द की गई थीं और यह निर्देश देते हैं कि उक्त उपाधियाँ तत्काल प्रभावी रूप से पुनः स्थापित हो जाएगी।

2- राष्ट्रपति यह भी निर्देश देते हैं कि उक्त अधिसूचना से, उसमें उल्लिखित उपाधियों को, जो उस अधिसूचना के जारी होने से पहले प्रदान की गयी थीं, किसी भी प्रकार से प्रभावित नहीं माना जाएगा।

के. सी. मादप्पा

(के० सी० मादप्पा)
राष्ट्रपति के सचिव।

STATEMENT OF MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS WITH
REGARD TO THE REVIVAL OF THE BHARAT RATNA AND PADMA AWARDS.

30-1-1980

Mr. Speaker, Sir,

The recent decision of the Government to revive the Bharat Ratna and Padma Awards has caused misgivings in some sections of the House and a doubt has been expressed in some quarters that this is not in conformity with the Constitution and in particular Article 18 thereof.

2. At the outset, I would state that the Government yields to none in its respect for the Constitution and its determination to see that the Constitution is observed not only in letter but also in spirit. But it is necessary to see what exactly is the nature of the prohibition contained in Article 18. Article 18 is one of the several Articles dealing with the right to equality. It states that no title, not being a military or academic distinction, shall be conferred by the State.

3. In order to understand the scope of this prohibition, it is necessary not only to ascertain the meaning of the word 'title', but also to have regard to the circumstances in which this Article was adopted by the Constitution-makers. The Constitution-makers had before them the provisions of other Constitutions prohibiting the grant of titles of nobility. Our Constitution-makers did intend to go further than this and to prohibit the conferment of titles which had, during the pre-Independence days, become a symbol to some extent of subordination to a foreign power. Thus, not only were hereditary titles of nobility banned, but even titles like 'Diwan Bahadur' which were expressly referred to by Shri T.T. Krishnamachari while this Article was being discussed.

4. It is clear from a reference to the proceedings of the Advisory Committee on Fundamental Rights that there was a cleavage of opinion on this point and that originally it was intended to prohibit only hereditary titles. However, it was decided to delete the word 'hereditary' and to abolish titles.

5. Nevertheless, it is significant that while proposing the deletion of the epithet 'hereditary', the mover of the amendment, Shri Masani, made it very clear that it may be "possible for the Union to honour

some of its citizens who distinguish themselves in several walks of life, like science and the arts, with other kinds of honour not amounting to titles; the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a Free India".

6. Thus, what the Constitution-makers intended to prohibit was what in common parlance is described as a prefix or an addition to the name.

7. The expression "title" has several meanings. According to well-known Lexicons in the context, it would mean an appellation attached to an individual or family in virtue of rank, function, office or attainment.

8. The award of Bharat Ratna as well as Padma Awards are not appellations. The Constitution, in letter and spirit alike, prohibit the State from enabling an individual to set himself apart from others by virtue merely of a grant from the State. There is nothing therein which forbids the State from honouring a distinguished citizen for services rendered by him to the cause of the community. It was for this purpose that these Awards were conceived of by the very same persons who played an active role in the framing of the Constitution. In reply to a Question in this House itself, the late Shri Jawaharlal Nehru made it very clear on August 25, 1954 that the Awards have no relation to titles and are merely honours conferred for distinguished service of a high order and that any comparison of these with titles would not be correct.

9. In this connection, it may be mentioned that this is not the first occasion when the House had to consider the constitutionality of the National Awards. In 1969, a very senior and respected Member, Acharya Kripalani, introduced a Bill intituled The Conferment of Decorations on Persons(Abolition) Bill, seeking to abolish the Bharat Ratna and Padma Awards on the ground that by such Awards, titles were sought to be brought in by back-door methods. During the debate on this Bill, the constitutionality of these Awards was exhaustively dealt with. It was pointed out that when the matter was first considered in 1948 by a Committee headed by that eminent jurist Sir B.N. Rau, it came to the conclusion: "The expression 'title' does not necessarily include all honours and decorations".

10. It was pointed out that the basic assumption made by the mover of the Bill that the awards of these decorations violate the provisions of the Constitution was not correct. No convincing reply was given to this point and the Bill itself was negatived.

11. In this connection, it is relevant that the system of instituting Awards in 1954 was evolved and approved at a time when the deliberations of the Constituent Assembly were fresh in the minds of the people and by the very same individuals who had played an active part in the framing of and were fully imbued with the spirit of the Constitution.

12. The meetings of the Cabinet wherein this proposal was discussed were presided over by Shri Jawahar Lal Nehru who had an abiding faith in the principles of democracy, socialism and equality and had played an active role in the framing of the Constitution. It would be of interest to mention that at least four meetings of the Cabinet, which went into this question, were attended by Shri T.T. Krishnamachari, who was one of the members of the Drafting Committee of the Constitution.

13. My Hon'ble friend on the opposite side, Shri Jagjivan Ram was present at six of the meetings of the Cabinet which discussed this issue, and was himself a member of the Government which decided to institute these Awards.

14. In his statement made on the 13th July, 1977 announcing the discontinuance of these Awards, the former Prime Minister, Shri Morarji Desai, had stated that this was on the basis of the opinion of the Attorney General who had held that Bharat Ratna and the Padma Awards would fall within the prohibition of grant of titles.

15. In view of the esteem due to the then holder of the high office of Attorney General, I have gone through his opinion with interest and respect, but am unable to share his conclusion. In his opinion, the Counsel recognised that the expression 'title' has a variety of meanings and that the meaning of the word must necessarily depend on the context in which it occurs. But singularly enough, he proceeded to construe it without recourse to the back-ground or genesis of what was being done by the Government in the past or its legislative history.

It would seem that the proceedings of the Advisory Committee on Fundamental Rights, prior to the debates in the Constituent Assembly, were in fact not considered by the Counsel though this legislative history sheds considerable light on the true intention of the Constitution-makers.

16. It was recognised in the very opinion that there are various distinctions in the shape of decorations, medals etc. which are given by any State, even a democratic State, in recognition of merit in various fields. The Counsel himself expressed a doubt as to whether it could have been the intention that the State should not recognise merit in various fields in customary fashion. This doubt would seem to have arisen from the fact that military and academic titles are expressly exempted from the prohibition contained in Article 18(1).

17. It would not, however, appear to be logical to conclude from the fact that because the State could at a future time grant an academic title like Maha Mahapodhyay (which possibility was referred to by Shri T.T. Krishnamachari in the Constituent Assembly) that no other form of recognition of distinguished service was possible. The express exceptions to the grant of a title can hardly be regarded as a basis for enlarging the scope of the original prohibition imposed by the Article on the meaning of the word title. As a matter of fact, the Counsel himself recognised the anomalies which would flow from his opinion by expanding the scope of the exception and giving to the word 'academic' occurring in the Article a wide meaning so as to cover any recognition in the field of art, law, literature and science generally. In fact, in the concluding portion of his opinion, the Counsel had observed:

"It would not include recognition of meritorious public service or public civil services. This must be regarded as a lacuna wholly accidental".

- : 5 : -

18. One should not lightly infer the existence of a lacuna in the Constitution by reading it without reference to the pre-existing position and the practice in other democratic countries. Having regard to the history and object of the Article, there is no warrant for coming to the conclusion that the Constitution-makers wanted to deny to the State in India the right or - rather the duty - which other democratic States possess, namely, to recognise and to honour its most distinguished citizens.

19. Having given the matter the most careful consideration, the position which emerges is that there is no room for doubt that the Constitution, as it stands, does not prevent the State from granting recognition to a distinguished son of Mother India. An Award, decoration or a Medal to such a person is not a title which the Constitution-makers sought to interdict.

....

Attested true copy

(Signature)
27/11/92 (VA)

Ministry of Home Affairs

Presented on

ANNEXURE - VII

13-2-1992

39

IN THE HON'BLE HIGH COURT OF KERALA

(Special Original Jurisdiction)

ORIGINAL PETITION No. 2110 /1992

Petitioner

Balaji Raghavan

Vs.

Respondents

The Union of India

COPY OF

ORIGINAL PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

Court Fee - Rs.

ADVOCATES FOR THE PETITIONER

M/s GEORGE VARGHESE KANNANTHANAM

KURIAN GEORGE KANNANTHANAM

MAMMEN GEORGE KANNANTHANAM

TONY GEORGE KANNANTHANAM

FELIX M. MARET

THOMAS GEORGE

Copy to *Sanjiv Central Govt Pleader*

17/2/1992 at 10.30 P

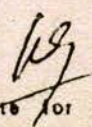
IN THE HONOURABLE HIGH COURT OF KERALA

ORIGINAL PETITION No. 200 /1992

COPY OF
Original Petition under Article 226 of the
Constitution of India

INDEX

Sl. No.	Contents	Pages
1.	Original Petition
2.	Affidavit in support of the O. P.
3.	Ext. PI-


Advocate for the Petitioner

(See last page)

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

Case No. PPJS. C.N.P.No.

of 1992

at in

Case No. 0116. C.N.P.No. O.P.No.

of 1992

Petitioner: Petitioner in O.P.

Respondent:

Respondent in O.P.

Balaji Raghavan,
23, Parampally Nagar,
Malayala Manorama Junction, Ernakulam.

Respondent:

Respondent: Respondent in O.P.

1177/CS/92

4-3-92

1688/PS/92

4.3.92

3640/PS/92

5/3

1. The Association of Doctors,
Kannur, District, Kerala.2. Union of India, represented by Cabinet Secretary,
New Delhi.

Petition submitted by Advocate Tony George Kamanthangam
for and on behalf of the above named petitioner under Rule 150
of the Kerala High Court Rules.

For the reasons stated in the Original Petition and
the accompanying affidavit, it is prayed that this Hon'ble
Court may be pleased to direct the respondents not to confer
titles like Bharat/Ratna, Padma Vibhushan etc. hereafter till
till the final disposal of the above Original Petition.

Dated this the 12th day of February, 1992.

SA/-

ADVOCATE

True Copy

Advocate

(Presented on 12-2-1992)

BEFORE THE HON'BLE HIGH COURT OF KERALA

C.M.P.No. 3699 of 1992

in

O.P.No. 2110 of 1992

Balaji Raghavan

Petitioner

Vs.

The President of India
and another

Respondents



PRATI PHAN FOR DIRECTION

Court fee Rs.5/- paid

Advocate: Tony George Kannanthan

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
(Special Original Jurisdiction)

O.P.No. of 1992

Balaji Raghavan

: Petitioner

Vs.

Union
The President of India and another

: Respondents

I N D E X

Sl.No.	contents	Pages
1.	Original Petition	1 to 8
2.	Affidavit in support of the O.P.	9 8
3.	Ext.P1: Copy of Gazette Notification (relevant portion) dated 2-1-1954 issued by the Secretary to the President, Shavax A. Lal.	10 to 12
4.	Ext.P2: Copy of the Representation dated 12-2-1992 by the petitioner to the 1st respondent President of India.	12
5.	Ext.P3: Copy of the Representation dated 12-2-1992 by the petitioner to the 2nd respondent.	13
6.	Ext.P4: Copy of Article dated 11-2-1992 published in Indian Express daily paper.	14

Dated this the 12th day of February, 1992.


ADVOCATE

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
(Special Original Jurisdiction)

O.P.No. of 1992

BETWEEN

Balaji Raghavan,
33, Panampally Nager,
Malayala Manorama Junction,
Ernakulam

PETITIONER

Address for Service of notices to the Petitioner
is that of his Counsel Tony George Kannanthanam, Advocate,
Valanjambalam, Cochin - 16.

AND

Union of India, represented by
Cabinet Secretary,
New Delhi.

RESPONDENT

ORIGINAL PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF

INDIA

The Petitioner above named respectfully state as follows:

1. Petitioner in this Public Interest Litigation
is a Public Spirited Citizen.
2. This Original Petition challenges the authority
of the Union of India to confer titles like Bharat Ratna,
Padma Vibushan etc.
3. This Original Petition is also to prohibit
Union of India from conferring Bharat Ratna, Padma Vibushan

- 2 -

etc. and any other titles or distinctions upon the citizens of India.

4. Petitioner submits that from 1954 onwards the Union of India violating Article 18(1) of the Constitution of India by conferring Bharat Ratna, Padma Vibhushan etc. and other titles and distinctions.

5. Art.18(1) of the Constitution says "No title, not being a military or academic distinction shall be conferred by the state". The constitution while prohibiting conferment of 'titles' by the state did not however define the term.

6. The translation of Art.18(1) in Malayalam as appeared in India's Constitution published in 1974 by the Law Ministry of India Government reads as follows: "നക്യ ^{Academic} വിദ്യാഭ്യാസസംബന്ധമായ ആയ ഭരത ^{Honour} പ്രദാനം ചെയ്യുന്നതും മറ്റൊരു സ്വതന്ത്ര ^{And} സംസ്ഥാനത്തോടോ ഭരത പ്രദാനം ചെയ്യുന്നതും പാടില്ല."

7. Petitioner submits that Art.18(1) prohibits conferment of any distinctions except military or academic.

8. It was held by the Andhra Pradesh High Court in A.I.R.1985 A.P.136(142) that conferment of Post Laureateship which more or less looks like conferment of a title may be a constitutional anathema. The above decision proceeds to say that Institution of Post Laureateship is based upon purchasing allegiance. The basic policy of appointing post Laureate is founded not upon the theory of conferring recognition on merit but upon rewarding the faithful and favourites,

- 3 -

Institution of Post Laureateship is not consistent with democratic polity. Exercise of State power for nakedly corrupt or deliberately malicious reasons or for promotion of thinly disguised private ends would be set aside by this court. Arbitrary or unreasonable exercise of state power lacking either in basic fairness of procedure or in minimum of rationality of substance would be set aside as ultra vires of the powers of the State authority. Powers derived from the constitution can be exercised by various state organs only for furthering public good. Hood Phillips in his "Reform of the constitution (at page 2) "Authority is vested in a person for the benefit of society and not for the benefit of that person himself. Any action of the State executive which is malefic or unreasonable is liable to be set aside".

9. Seervai in his 4th edition on constitutional law has criticised conferring of Bharat Ratna, Padma Sri etc. by saying that "There is a difference between theory and practice and a regular "Honours list" appears once a year in India. It is difficult to believe that "Padma Sri" etc... are academic distinctions.

10. Petitioner submits that as an Indian citizen it is his duty to see that the Constitution of India is not violated and it is kept in tact. Petitioner submits that it is therefore his duty to approach this Hon'ble Court for appropriate reliefs even if the person that violates the constitution is a high dignitary like the president of India or the Union of India.

11. The Union of India introduced Bharat Ratna, Padma Vibhushan etc. for the 1st time in 1954 by notification dated 2-1-1954.

- 4 -

12. The relevant portions of the Notification dated 2-1-1954 in the Gazette of India is produced herewith and marked as Exhibit. P1.

13. Excerpts from the discussions in the constituent Assembly pertaining to the amendment No. 387 moved by Sri. T. T. Krishna Machari and accepted by Dr. Ambedkar in the Constitutional Assembly debates between 30th November 1948 and 8-1-1949 are as follows:

"There has been a proposal at one stage that it is the intention of the members of the Drafting Committee to exclude only hereditary titles or other privileges of birth, but Dr. Ambedkar has chosen not to move it. Actually if he had moved it, that would have made the position of those people who did not have any hereditary titles but resigned their titles with the advent of independence very difficult. Then it would mean that the Government could grant titles like Dewan Bahadur, something analogous to knighthood and so on. It would put those people who have been patriotic enough to resign their titles at the time that we got independence in a very invidious position".

14. In the Constitutional assembly debates between 30-11-1948 and 8-1-1949 R. K. Sidwa said "Mr. Vice President, Sir, conferment of titles during the British regime has been so scandalous that a large section of the people of the country has always viewed it with contempt. Therefore I am very glad that in this house and everywhere outside also today the conferment of titles is looked upon with equal contempt and this constitution rightly provides there should be no titles conferred upon anyone by the state".

15. The various dictionary meanings of title is mentioned below.

- 5 -

16. According to Learners Idiomatic and Syntactic English dictionary, "Title" means - a word indicating the honours gained by him as King, Lord, Sir, Professor, Dr, Mrs, Miss.

17. According to New Merriam Webster dictionary "Title" means - an appellation of honour.

18. In G.S. Pande's 4th edition of the Constitutional law of India it is mentioned that "strictly speaking Bharat Ratna, Padma Vibhushan etc. do not come under any of the two exceptions (ie. Military and academic distinction)".

19. Petitioner submits that Bharat Ratna, Padma Vibhushan etc. make distinctions according to rank contrary to the Preamble of the constitution which promise equality of status.

20. Bharat Ratna, Padma Vibhushan etc. are divided into several classes superior and inferior and holders of Bharat Ratna have been even assigned a place in the 'Warrant of Precedence' (9th place ie. just below the cabinet ministers of the Union) which is usually meant for indicating the rank of different dignitaries and high officials of the State in the interests of discipline in the administration.

21. Petitioner submits that the consequence of conferring titles is the creation of a rank of persons on the basis of Government recognition in the same way as the conferment of nobility would have.

22. While the Constitution itself does not admit of any exception other than on the ground of military or academic distinction recognition of service to the public

- 6 -

including service rendered by Govt. servants
in any field by conferment of any distinction or title offends
against the spirit of democracy that underlies Art. 18 and
the other provisions of the Constitution.

23. Conferring of Bharat Ratna, Padma Vibhushan etc.
constitutes a direct violation of Art. 18 which on its proper
interpretation prohibits not only award of title but also
the award of any 'distinction' other than 'military' or 'academic
distinction' by the state.

24. The word 'distinction' in the Article is an exception
to the word 'title'. So interpreted a title cannot be conferred
on any ground whatsoever but a distinction can be awarded only
on the ground of military and academic merit.

25. Petitioner submits that it is not factually
true that Bharat Ratna, Padma Bhushan etc. cannot be used
as an appendage to the recipient's name. An eminent
Jurist allowed his Padma Vibhushan to be printed as an
appendage to his name in the title page of a book of his,
published by a renowned foreign institution which could not
happen without his knowledge or consent. This only illu-
strates that it tends to degenerate into instruments of
patronage and scramble for inequality as soon as the state
becomes source of such distinctions.

26. Petitioner also submits that Bharat Ratna, Padma Sri
etc. are in violation of Art. 18 both in spirit and in letter.

27. Bharat Ratna, Padma Sri. etc. are conferred by
the President of India. Copy of the Representations made to
the President of India and Cabinet Secretary, New Delhi
are marked as Exts. P2 and P3.

- 7 -

28. Copy of an Article which came in 'Indian Express' daily dated 11--2--1992 against conferring of Bharat Ratna etc. is marked as Exhibit.P4.

29. Petitioner submits that the nation should at least not embarrass the dead and the gone among freedom fighters by bestowing titles the concept of which they had stoutly and consistently opposed during their lifetime.

G R O U N D S

(1) Conferring of Bharat Ratna, Padma Sri etc. is in violation of Art.18(1) of the Constitution of India.

(2) Bharat Ratna, Padma Sri etc. make distinctions according to rank contrary to the Preamble of the Constitution which promise 'equality of status'.

Conferring of Bharat Ratna etc. is against the oath taken by the president of India under Article 60 of the Constitution of India.

(3) Recognition of service to the public in any field including service rendered to Government by conferring titles and distinctions for the same offends against the spirit of democracy that underlies Article 18 and other provisions of the Constitution.

For the reasons stated above it is prayed that this Hon'ble Court may be pleased to interfere under

- 8 -

Article 226 and be pleased:

(i) to issue a writ in the nature of mandamus or other appropriate order or direction directing the respondents ~~1 and 2~~ not to confer Bharat Ratna, Padma Bhushan etc. hereafter.

(ii) to grant such other reliefs as may be deemed fit and proper to this Hon'ble court in the nature of this case and allow this Original Petition.

Dated this the 12th day of February, 1992.



sd/-

PETITIONER

sd/-

Counsel for the Petitioner

True Copy

Advocate

- 9 -

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM
(Special Original Jurisdiction)

O.P.No. of 1922

Belaji Raghavan

: Petitioner

Vs.

The ^{Govt} ~~Government~~ of India and ~~other~~

: Respondents

AFFIDAVIT

I, Belaji Raghavan, aged 34 years, S/o. late P.S. Raghavan Nair, 33, Panampally Nagar, Malayala Manorama Junction, Ernakulam do hereby solemnly affirm and state as follows:

1. I am the petitioner in the Original Petition. I am aware of the facts sworn to hereunder. I am competent to swear to this affidavit.

2. All the facts stated in the O.P. are true and correct. It may kindly be treated as a part of this affidavit.

3. The reliefs asked for by this petitioner in the O.P. is just and proper. It may kindly be allowed, otherwise I will be put to irreparable loss and hardship.

All the facts stated above are true to the best of my knowledge, information and belief.

Dated this the 12th day of February, 1922.

sd/-

DEPONENT

Solemnly affirmed and signed before me by the deponent in my office at Ernakulam on this the 12th day of Feb. '22.

sd/-

True Copy

ADVOCATE

Thos. George Mathew

- 10 -

Ext. P1

THE GAZETTE OF INDIA
(Notification Nos. 1-2, Pres/ 54)

ExtraordinaryPart 1 Section 1January 2, 1954

The President is pleased to institute an award to be designated "Bharat Ratna" and to make the following Regulations:

(1) The decoration shall be in the form of a Medal and styled and designated "Bharat Ratna" (hereinafter referred to as the Medal).

(2) The Medal shall be circular in shape one and three eighth inches in diameter with rims on both sides. The medal shall be made of Gold. On the obverse side of the medal shall be embossed the sun in the centre with rays and the words "Bharat Ratna" (in hindi) above the sun along the upper edge of the medal and a floral wreath along the lower edge. On its reverse shall be embossed the design of the state emblem in the centre and the words "Satyameva Jayate" (in hindi) along the lower edge and a suitable floral wreath at the top along the upper edge. The fittings shall be of a standard pattern. A sealed pattern of the decoration shall be deposited and kept.

XXX

(4) The medal shall be awarded for exceptional services towards the advancement of Art, literature and science and in recognition of public service of the highest order.

(5) The decoration shall be conferred by the President.

XXX

(7) Any person without distinction of race, occupation, position or sex shall be eligible for the Medal.

(8) The President may cancel and annul award of the Medal to any person and thereupon the name of such recipient in the Registrar shall be erased and the recipient shall be required to surrender the medal; but it shall be competent for the President to restore the decoration when such cancellation and annulment has been withdrawn.

Ext. P1 contd... (2)

No. 2 - Pres/54 - The President is pleased to institute an award to be designated "Padma Vibhushan" in three classes namely: "Pahala Varg", "Dusra Varg" and "Tisra Varg" and to make the following regulations:-

(1) The decoration shall be in the form of a medal and styled and designated "Padma Vibhushan" (hereinafter referred to as the medal).

(2) The "Pahala Varg" Medal shall be gold gilt, the "Dusra Varg" of standard silver and the "Tisra Varg" of Bronze. On the obverse side of the medal shall be embossed a lotus flower in the centre and the words "Padma Vibhushan" (in Hindi) above the lotus along the upper edge of the Medal and a floral wreath along the lower edge. On its reverse shall be embossed the design of the state emblem in the centre and the words "Desh Seva" (in Hindi) along the lower edge and a lotus wreath at the top along the upper edge.

xx

(4) The medal shall be awarded for distinguished public service in any field including service rendered by Government servants.

Pahala Varg shall be awarded for exceptional and distinguished service.

Dusra Varg shall be awarded for distinguished service of a high order.

Tisra Varg shall be awarded for distinguished service.

(5) The decoration shall be conferred by the President.

xx

(7) Any person without distinction of race occupation position or sex shall be eligible for the medal.

xx

(11) The president may cancel and annul award of the medal to any person and thereupon the name of such recipient in the Register shall be erased and the recipient shall be required to surrender the medal but it shall be competent for the president to restore the decoration when such cancellation and annulment has been withdrawn.

cd/-

Shavax A. Lal
Secy. to the President.

True Copy

This is the true copy (relevant portion) of Ext. P1 referred to the O.P.

Awards by the State

Ext. P2

The convergence between theory and practice

Belaji Raghavan,

S/o. late P.R. Raghavan Nair,

33, Panampally Negeri,

Malayala Manorama Junction,

Ernakulam.

To the President of India,

The President of India,

Rajendra Prasad Bhawan,

New Delhi.

Sir,

This is to bring to your notice that titles like

Bharat Ratna, Padma Bhushan etc. are conferred in violation

of Article 18(1) of the Constitution of India and also is

a violation of Article 60 of the Constitution of India.

"Art. 18(1) says: "No title, not being a military

or academic distinction shall be conferred by

the state".

2. Article 60 says that: "I (The President of India) will to the best of my ability preserve, protect and defend the Constitution and the law".

3. This is to bring to your kind notice that unless you stop conferring Bharat Ratna, Padma Vilhushan etc. hereafter and let me know the steps taken by you in this direction at the shortest possible time I will be forced to move the Hon'ble High Court for appropriate reliefs.

Yours faithfully,

Belaji Raghavan

cc/-

Belaji Raghavan

True Copy

This is the true copy of Ext. P2 referred to in the O.P.

Advocate

This is the true copy

SL. No.

- 13 -

From

Ext. P3.

Balaji Raghavan,
33, Panampally Nagar,
Malayala Manorama Junction,
Ernakulam.

To

Union of India,
represented by the Cabinet Secretary,
New Delhi.

Sir,

This is to bring to your notice that unless you stop conferring titles like Bharat Ratna, Padma Vibhushan etc. at once hereafter and let me know the steps taken by you in this direction at the shortest possible time I will be forced to seek appropriate remedy through the Hon'ble High Court.

This is also to bring to your notice that conferring of Titles like Bharat Ratna, Padma Vibhushan etc. are in violation of Art. 18(1) of the Constitution of India and in violation of the oath taken by the President of India under Art. 60 of the Constitution of India.

Dt: 12-2-1992

Ernakulam

Yours faithfully,

sd/

Balaji Raghavan

True Copy

This is the true copy of Ext. P3 referred to in the O.P.

Advocate

Awards by the State Ext. P4 57

The divergence between theory and practice in India

It has not been altogether uncommon for rulers to confer decorative symbols on individuals to put them on a pedestal above the one on which everyone else in the society rests. This is motivated by a desire to create a category of loyalists in the State; and is the historical context in which the practice of conferring State titles is to be viewed.

This explains why democratic movements have disfavoured the bestowal of royal titles. Both the American and the French Revolutions firmly stood against royal anointing. Similarly, the national movement in India was always opposed to the British practice of conferring titles on Indians. This aversion is faithfully monitored and reflected in the Constitution of India, which while guaranteeing equality makes it explicit in Article 18:

"No title, not being a military or academic distinction, shall be conferred by the State." Nor is a citizen of India to accept any title from a foreign State. What is more, even a foreigner while holding any office under the State in India is not to accept any title from a foreign State — except with the permission of the State in India.

by S. R. Maheswari

this implicit ambiguity which was invoked by the State later when it revived the once-censured British practice of bestowing titles. For the first four years of the Republic, the State remained prevented from conferring titles on its citizens, not because India did not have worthy persons at the time but because the Constitution so ordained.

It was on January 5, 1954, the Government instituted the decorations of the Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri — in descending order of dignity and honour. Even within the decoration of Padma Vibhushan three classes were originally introduced: *pahla varg* (first class), *dusra varg* (second class) and *tisra varg* (third class).

The Bharat Ratna is the nation's highest State award entitling its recipient to the seventh place in the warrant of precedence, that is, a place just below a Union Cabinet Minister. The official communique instituting these honours explained that the Bharat

and 86 respectively.

The present article is not purported to be a critique, even remotely, of the awardees but of the practice of award giving by the State.

The constitutional prohibition of the conferment of titles by the State, it is clear, is a legacy of the freedom movement which had consistently denounced the practice. The present awards, first instituted in January, 1954, are a clever device to drive a distinction between 'titles' and 'awards'. The distinction between a title and an award is tenuous, illusory even though the State is happy to perpetuate the practice.

The Morarji Desai-led Janata Government had discontinued award giving by the State when it was in power during 1977-79, but Indira Gandhi revived it on return to office in 1980. Even Desai later fell passively in line by accepting Bharat Ratna in 1991 from the hands of the Chandra Shekhar Government. Award giving has thus come to stay as a part of State activity whatever be the original intention of Article 18.

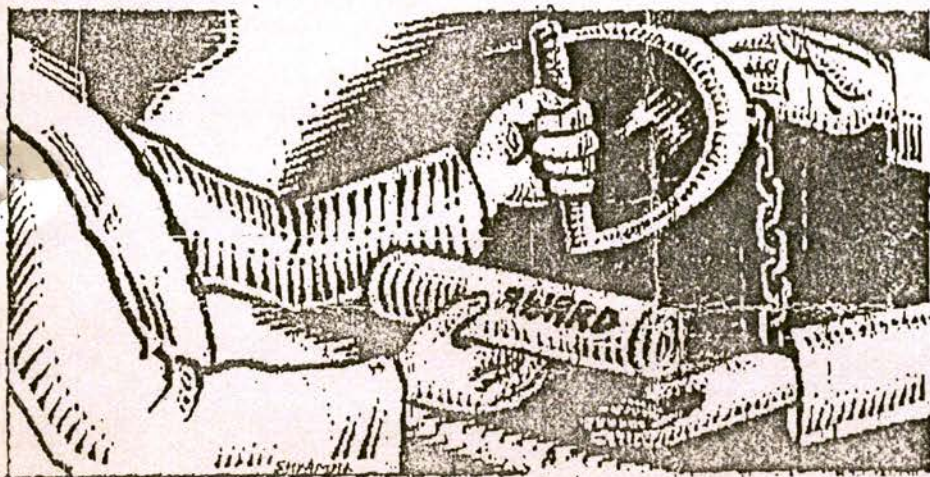
In the initial phase, the State was reticent and refrained from giving awards, especially the Bharat Ratna. Equally impressive was its emphasis on accomplishments in 'art, literature, and science' and its concern towards a more cultured definition of public service. Mid-eighties perhaps constitute some kind of a watershed, in the sense that the State became less economical about Bharat Ratna, overlooked accomplishments in art, literature and science and chose to restrict 'public service' to politics.

Above all, a painful development began to show up and this was to hark back to distant past in India's political history, namely the freedom movement for anointing Bharat Ratna.

Note may quickly be taken of some recent trends in State award giving. One is a disposition to go back to the heroes of the freedom era for anointing purposes. This is unkind. The nation should at least not embarrass the dead and the gone among freedom fighters by bestowing titles, the concept of which they had stoutly and consistently opposed during their lifetime. Personal and regional predilections also seem to be colouring award giving.

What is presently happening is invidious, politically motivated, and on the whole graceless. The second one in award giving is a tilt towards the politician, which implies a rather restricted and cheap definition of 'public service'. The recipients have even included politicians who had attracted controversies and allegations during their lifetime.

Award giving requires extreme care, caution and circumspection, and the decision-making process should be made foolproof governed by firm guidelines and ground rules. The whole trouble is that while award giving is a solemn State responsibility, it is operated by the political party in power of the day. In the context of the contemporary political and administrative culture of India, this implies a small group of individuals who wield disproportionate influence in final decision-making.



The embryo of Article 18 prohibiting conferment of titles by State, one may note, was born in a note by K. T. Shah, a nationalist leader and an active member of the Constituent Assembly of India. The provision which originally found favour with the Subcommittee on Fundamental Rights, prohibited all titles except the academic degree, and, secondly, made Parliament the consent-giving authority in the case of a citizen accepting a title from a foreign State.

It was at the stage of subsequent discussion that Article 18 containing the present phraseology emerged. As a result, the words 'with the exception of academic degrees', were substituted by 'not being a military or academic distinction', the ban on a citizen accepting a title from a foreign country was made absolute, and some further elaborations were introduced. Article 18 was finally approved by the Constituent Assembly of India on December 1, 1948.

The Constitution while prohibiting conferment of 'titles' by the State did not care to define the term. It, for instance, was not very clear which honours and dignities were intended to be covered by the word 'title'. It was

Ratna is awarded for 'exceptional service towards the advancement of art, literature and science and in recognition of public service of the highest order' and other decorations are awarded in order of the degree of merit for 'distinguished public service in any field, including services rendered by Government servants'.

The Padma Vibhushan is awarded for 'exceptional and distinguished service in any field including service rendered by Government servants'; the Padma Bhushan for 'distinguished service of a high order in any field, including service rendered by Government servants', and the Padma Shri for 'distinguished service in any field including service rendered by Government servants'.

In the year of institution, the Bharat Ratna was awarded to three: C. Rajagopalachari, S. Radhakrishnan and C. V. Raman; five received Padma Vibhushan, 22 Padma Bhushan, and 19 Padma Shri. In 1992, three were awarded Bharat Ratna, two being in the forefront of the freedom movement (Subhas Chandra Bose and Abul Kalam Azad) and one well-known contemporary industrialist. The recipients of other awards were: 10, 33

This is the true copy of the Ext. P4 referred to in the O.P.

Advocate

High Court 75,000 16/869 7 11 1990 GPE

IN THE HIGH COURT OF JUDICATURE OF THE STATE OF KERALA

O. P. No. 2110 of 1992 A.

Petitioner: Balaji Raghavan

Counter-Petitioner: Union of India represented by Cabinet Secretary, New Delhi

Sir,

I am to inform you that the O. P. has been presented by Advocate Shri. P. V. Narayana Menon on behalf of the petitioner.

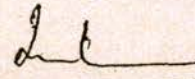
You are hereby requested to appear before this Court at 10.30 A.M. on 16.3.92.

either through your Advocate or through someone authorised by law to represent you in the matter.

Affidavit of the respondent if any should be filed within 3 months

of receipt of notice.

Yours faithfully,



For Registrar

High Court of Kerala,
Ernakulam.

18/2/92
TG
A.M.C.

4/2/92

Presented on

88 ANNEXURE-VII (Contd.)

13.2.1992

(69)
59

IN THE HON'BLE HIGH COURT OF KERALA

(Special Original Jurisdiction)

ORIGINAL PETITION No. 2110 /199

Petitioner..

Rajesh C. Rajan

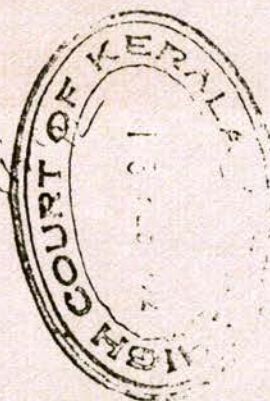
Respondents..

vs. Union of India
The President of India
F. and

COPY OF

ORIGINAL PETITION UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

~~Court Fee~~ Rs.



ADVOCATES FOR THE PETITIONER

M/s GEORGE VARGHESE KANNANTHA
KURIAN GEORGE KANNANTHANA
MAMMEN GEORGE KANNANTHANA
TONY GEORGE KANNANTHANAM
FELIX M MARET
&
THOMAS GEORGE

AT ERNAKULAM

(SPECIAL ORIGINAL JURISDICTION)

ORIGINAL PETITION NO.2110 OF 1992(A)

In the matter of :

BALAJI RAGHAVAN

:::: PETITIONER

VERSUS

UNION OF INDIA

:::: RESPONDENT

COUNTER AFFIDAVIT ON BEHALF OF UNION OF INDIA



I, V.P. Bhatia, s/o late Shri M.L. Bhatia aged 50 years working as Under Secretary to the Government of India, Ministry of Home Affairs, Residing at 5/602, Lodhi Colony, New Delhi-110003 do hereby solemnly affirm and state as follows:-

1. That I am conversant with the facts of the case as borne out by the official records pertaining to the matter and I am as such competent to swear this affidavit on behalf of the Union of India and I am authorised to do so.

2. That I have read a copy of the Original Petition filed by the Petitioner herein under Article 226/227 of the Constitution of India in this Hon'ble Court and have understood the contents thereof. I hereby deny all the averments made in the said petition by the petitioner unless the same are expressly and specifically admitted by me hereafter. I further submit that the aforesaid Original Petition is devoid of any merit or substance and deserves to be rejected outright by this Hon'ble Court.

3. The Respondent herein craves leave of this Hon'ble Court to make the following Preliminary submissions before adverting to a parawise reply.

4. It is submitted that in the year 1948, when the Constituent Assembly was discussing various articles of the new Constitution, the present Article 18 of the Constitution was at that time

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[Signature]

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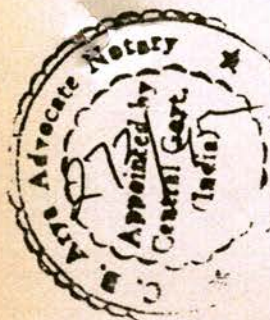
numbered as Article 12 and read as under:-

"No title shall be conferred by the State."

Discussions on this article were held on 30th November and 1st December, 1948. During discussions, the majority opinion was against the retention of titles bestowed by the British Government, but there was general agreement regarding the retention of military and academic distinctions. The article as finally adopted and renumbered as Article 18(1) read as under:-

"No title, not being a military or academic distinction, shall be conferred by the State."

It is submitted that, as the facts stated hereinafter will show, the word title was used in the Article in a limited sense in the context of the then prevalent system of titles being conferred by the British Government. It did not cover recognitions for exceptional & distinguished services rendered by citizens by conferments of awards & decorations.



5. The question of institution of a system of honours and awards after Independence was first considered in 1948 by a Committee known as the Prime Minister's Committee on the institution of a System of Honours and Awards for India headed by Shri B.N. Rau, who was then the Constitutional Adviser to the Government of India. In its first report submitted to the Prime Minister on 9th March, 1948, the Committee considered the question whether awards of any kind would be consistent with the provisions of the Article of the Draft of the new Indian Constitution and after consulting the Constitutions of certain other countries, came to the conclusion that the expression "title" did not necessarily include all "Orders and Decorations". The Committee, therefore, proceeded on the basis of this thinking that the "Orders and Decorations" carrying no title were not meant to be prohibited under the new Indian Constitution.

6. While the Constitution has abolished titles, nothing contained in it debars the Government from extending recognition to individual

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acts of outstanding merit by way of 'Orders and decorations', in the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general.

7. The Government approved the institution of Bharat Ratna in September, 1952. In May, 1953, the Government considered the question of instituting a medal corresponding to the "Kaiser-i-Hind" medal and decided that there should be an order to be called "The order of the lotus" having 3 classes viz.(i), (ii) and (iii) and that this order might be awarded for distinguished service in any field including services rendered by the Government Servants in Civil Employment. A view was also taken that these awards were not to be regarded as titles in terms of Article 18(1) of the Constitution.

8. In view of the position stated above, these awards were then formally instituted in January, 1954 by issue of two Presidential Notifications No.1-Pres./54 and No.2-Pres./54 dated 2nd January, 1954 which were subsequently superseded by four fresh Notifications namely No.1-Pres./55, 2-Pres./55, 3-Pres/55 and 4-Pres./55 dated the 8th January, 1955. The purpose for which these awards are given are as follows:-

NAME OF THE AWARD

PURPOSE FOR WHICH IT IS GIVEN

Bharat Ratna

For exceptional Service towards the advancement of art, literature and science and in recognition of public service of the highest order.

Padma Vibhushan

For exceptional and distinguished service in any field including service rendered by Government servants.

Padma Bhushan

For distinguished service of a high order in any field including the service rendered by Govt. servants.



PPShah

Padma Shri

For distinguished service in any field including service rendered by Govt. servants.

The aforementioned Presidential Notifications also provide that any person without distinction of race, occupation, position or sex shall be eligible for these awards and also that the decorations may be awarded posthumously. Copies of the notifications are annexed hereto and marked Annexure I. The forms of the Sanads referred to in the Notifications are annexed hereto & marked Annexure.II.

9. In the year 1969 and again in the year 1970, the late Acharya J.B. Kripalani, who was then a Member of the Lok Sabha, moved a non-official Bill for the abolition of the awards mentioned above. In the draft statement of Objects and Reasons appended to the Bill, the following main points were stated:-



(a) Although titles have been abolished under Article 18 of the Constitution, they are sought to be brought in by the backdoor in the form of decorations.

(b) the decorations are not awarded according to merit and the Government of the day is not the best judge of the merits or eminence of the recipients.

The Bill was opposed in Parliament by Government on the following grounds:-

- (i) In the Constitutions of other countries a clear distinction was drawn between titles and honours or decorations. Art. 49 of the Constitution of USSR, contains separate provisions regarding the institution of decorations, honours, medals and titles of honours. There is thus a distinction between titles and decorations.
- (ii) Bharat Ratna and the Padma Awards are decorations and not titles. Therefore, the basic assumption made by Acharyaji that the award of these decorations violates the provisions of the Constitution is not correct.
- (iii) Government invites recommendations for these awards and these are processed through a very elaborate process of

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screening. To say that Government is not the best Judge to make these awards is not correct because all possible precautions are taken and only such names are suggested and accepted which are really found fit for these high awards that are given to them.

The Bill when put to vote was defeated.

10. A Press Note was issued by the Government of India on April 17, 1968 making it abundantly clear that the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads, invitation cards, posters, books etc. is against the scheme of the Government as the awards are not titles and their use alongwith the names of individuals is contrary to the spirit of the Constitution which has abolished titles. A true copy of the said Note is annexed herewith as Annexure-III. It was also emphasised in the Press Note that no civilian awards should be affixed or prefixed with the name of the awardee to give an appearance of a title.

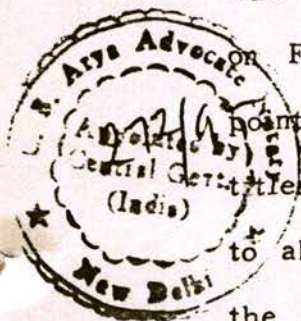


11. In August, 1977 the institution of the Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri was cancelled, vide Notification No.65-Pres./77 dated 8th August, 1977, a true copy of which is annexed hereto as Annexure-IV.

12. In January, 1980 Government revived these awards. A true copy of the Notification No.25-Pres./80 dated 25th January, 1980 by which the earlier Notification No.65-Pres./77 dated 8th August, 1977 was cancelled is annexed hereto as Annexure-V. In order to quell all doubts in the matter, on 30th January, 1980, the then Minister of Law, Justice and Company Affairs made a statement in the Lok Sabha with regard to the revival of the Bharat Ratna and Padma Awards. In this statement, he referred to the then decision of the Government to revive the Bharat Ratna and Padma Awards which had caused misgivings in some sections of the House and raised doubts in some quarters that this was not in conformity with the Constitution and in particular Article 18 thereof. He made out in the statement that in order to extend the scope of the prohibition contained

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in Article 18, it is necessary not only to ascertain the meaning of the word 'title' but also to have regard to the circumstances in which this Article was adopted by the Constitution-makers. The Constitution-makers had before them the provisions of other Constitutions prohibiting the grant of titles of nobility. Our Constitution-makers did intend to go further than this, and to prohibit the conferment of titles which had, during the pre-Independence days, become a symbol to some extent of subordination to a foreign power. Thus not only were hereditary titles of nobility banned, but even titles like 'Diwan Bahadur' which were expressly referred to by Shri T.T. Krishnamachari while this Article was being discussed. He further stated that it was clear from a reference to the proceedings of the Advisory Committee on Fundamental Rights that there was a cleavage of opinion on this point and that originally it was intended to prohibit only hereditary titles. However, it was decided to delete the word 'hereditary' and to abolish titles. Nevertheless, it is significant that while proposing the deletion of the epithet 'hereditary', the mover of the amendment, Shri Masani, made it very clear that "it may be possible for the Union to honour some of its citizens who distinguish themselves in several walks of life, like science and the arts, with other kinds of honours not amounting to titles; the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a free India." A true copy of the said statement made by the Hon'ble Minister of Law, Justice and Company Affairs in the Lok Sabha on 30th January, 1980, is annexed herewith as Annexure-VI.



1/3/80

...7/-

PARAWISE REPLY:

13. The contentions in paras 1,2 & 3 do not require any reply, except to state that the present petition under Article 226 is not maintainable and the contentions that are sought to be raised are baseless.

14. With reference to the contents of paras 4,5,6 & 7 it is stated that conferring of the said awards does not in any manner constitute violation of Article 18(1).

15. The contentions in para 8 are incorrect and are denied. It is submitted that conferring of Poet Laureateship stated therein is not comparable to Bharat Ratna and other Padma Awards. In the case of Padma Awards, there is a regular procedure for calling for recommendations from State Governments/ Union Territories and other agencies and their evaluation.

Only those which qualify after scrutiny at different levels, are announced on the Republic Day every year. The allegations of rewarding faithfuls and favourites etc. is therefore baseless.

16. With reference to the contentions in paras 9 and 10, it is submitted that in view of the Preliminary Submissions made above no further reply is necessary.

17. With reference to the contents in paras 11 to 17, no reply is necessary.

18. With reference to the contents of para 18 it is stated that the opinion of the commentator is a matter of individual opinion. As already stated the awards/decoration referred to by the petitioner do not constitute conferment of titles etc. as alleged. There is no question of violation of any constitutional provisions in this regard.

19. The contentions in para 19 are incorrect and are denied. As already stated there is a regular procedure of selection in the case of Padma Awards. The essence of equality before law is that there should not be any arbitrariness in classification/selection. What Article 14 strikes at is arbitrariness because an action that is arbitrary, must necessarily involve negation of equality. If the classification is not reasonable and is not based on reasonable criteria, the impugned legislative or executive action would plainly be arbitrary and guarantee of equality under Article 14 would be breached. Wherever



APShah

therefore, there is arbitrariness in State action, whether it be of the legislature or of the executive or of an 'authority' under Article 12, Article 14 immediately springs into action and strikes down such State action." (Ajay Hasia Vs. Khalid Mujib Sehravadi (1981) 1 SCC 722, 740, 741).

20. With reference to the contents of para 20 it is submitted that the Warrant of Precedence is only order of seating for Ceremonial functions. It has nothing to do with 'interests of discipline in the administration'. Only the holders of Bharat Ratna are included in the Warrant of Precedence. Other Padma Awardees are not included in the Warrant of Precedence. Hence the contentions of the petitioner are incorrect.

21. The contentions in para 21 are incorrect and are denied.



As already explained herein-above these are decorations and cannot be compared with the conferment of nobility. These awards are only for recognition of contribution in various fields of arts including public service.

With reference to the contents of paras 22, 23 and 24 it is submitted that in view of the above submissions no further reply is necessary.

23. The contentions in para 25 are incorrect and are denied.

It is submitted that the Government of India have issued clear executive instructions to all the State Governments and Union Territory Administrations to the effect that the civilian awards namely, Bharat Ratna, Padma Vibhushan etc. are not titles and their use alongwith the names of the individuals is contrary to the spirit of the constitution which has abolished titles and as such no civilian awards should be affixed or prefixed with the name of awardee to give an appearance of a title. A Press Note has also been issued on the subject on the 17th April, 1968 for the information of the general public vide Annexure-III. In spite of this if any one uses these decorations as an appendage to one's name and it comes to the notice of the Government of India the matter is normally taken up with the individual awardee. The petitioner has not given the name of the jurist who is alleged to have

Prashant

- 0 -

used the award of Padma Vibhushan as an appendage to his name in the title page of a book authored by him.

68

24. The contentions in para 26 are incorrect and are denied.

25. The contentions in para 27 do not require any reply.

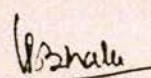
26. The contentions in para 28 which refer to the opinion of a newspaper correspondent cannot be anything more than his personal opinion and hence no further comments are necessary.

27. With reference to the contentions in para 29, it is stated that these constitute the personal opinion of the petitioner and in view of the submissions made above no further reply is necessary.

28. The Grounds raised by the petitioner are merely repetitive and in view of the submissions made herein-above no further

reply is necessary except to say that the giving of the awards Bharat Ratna etc. does not constitute violation of Article 18(1) of the Constitution.

In view of the foregoing submissions it is submitted that the instant petition filed by the petitioner does not raise any issue of general public importance and is totally devoid of any merit or substance and as such the same merits outright rejection by this Hon'ble Court. It is prayed accordingly.


DEPONENT

VERIFICATION:

I, the abovenamed deponent, do hereby verify the contents of the above affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it is false and nothing material is concealed therefrom.

Verified at New Delhi on 25th November, 1992.


DEPONENT

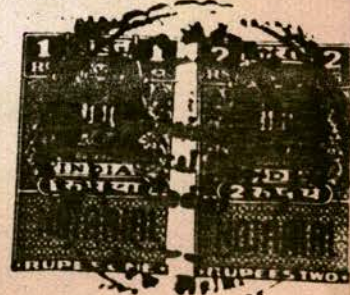
Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 25th day of Nov, 1992 at my office at

Certified that the foregoing Statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted it as correct.


Notary, DELHI

(Chander B. Arya)
Notary/Advocate

25 NOV 1992



NOTIFICATIONS

No. 1-Pres./54.—The President is pleased to institute an award to be designated "Bharat Ratna" and to make the following Regulations:—

- No. 2-Pres./54.—The President is pleased to institute an award to be designated "Padma Vibhushan" in three classes, namely: "Pahela Varg", "Dusra Varg" and "Tisra Varg" and to make the following Regulations:—

- Pahela Varg:—Lotus-coloured (Pink) silk divided into two equal segments by a white vertical line.
- Dusra Varg:—Lotus-coloured (Pink) silk divided into three equal segments by two white vertical lines.
- Tisra Varg:—Lotus-coloured (Pink) silk divided into four equal segments by three white vertical lines.

Ministry of Home Affairs



4. The medal shall be awarded for distinguished public service in any field including service rendered by Government servants.

Pahela Varg shall be awarded for exceptional and distinguished service.

Dusra Varg shall be awarded for distinguished service of a high order.

Tisra Varg shall be awarded for distinguished service.

5. The decoration shall be conferred by the President.

6. The names of those persons, upon whom the decoration may be conferred shall be published in the Gazette of India, and a Register thereof maintained under the direction of the President.

7. Any person without distinction of race, occupation, position, or sex shall be eligible for the medal.

8. If a recipient of the medal of any of the three classes again renders such distinguished service as would have made him or her eligible to receive the medal of the same class, such further distinguished service shall be recognised by a Bar to be attached to the riband by which the medal is suspended and, for every such subsequent distinguished service an additional Bar shall be added. For every such bar, a replica of the medal in miniature shall be added to the riband when worn alone.

9. If a recipient of the medal of any of the three classes shall again perform such distinguished service as would have made him or her eligible for the award of a medal of a class different from the one already received, such further distinguished service shall be recognised by the award of another medal of the appropriate class.

10. The miniature medal which may be worn on certain occasions by recipients shall be half the size of the medal, and a sealed pattern of the said miniature medal shall be deposited and kept.

11. The President may cancel and annul the award of the medal to any person and thereupon the name of such recipient in the Register shall be erased and the recipient shall be required to surrender the medal; but it shall be competent for the President to restore the decoration when such cancellation and annulment has been withdrawn.

12. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

SHAVAX A. LAL,
Secy. to the President.

B. Shahu

Alfred ...

29/11/52



OFFICE OF THE SECRETARY TO THE PRESIDENT NOTIFICATIONS

71

New Delhi, the 8th January, 1955

No. 1-Pres. 155—The President is pleased to make the following revised regulations for the award of the decoration BHARAT RATNA in supersession of those published in Notification No. 1-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11):—

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.

2. The decoration shall be in the form of a Peepul leaf, two and five-sixteenth inches in length, one and seven-eighth inches at its greatest breadth and one-eighth of an inch in thickness. It shall be of toned bronze. On its obverse shall be embossed a replica of the Sun five-eighths of an inch in diameter with rays spreading out from five-sixteenths of an inch to half an inch from the centre of the Sun, below which shall be embossed the words BHARAT RATNA in Hindi. On the reverse shall be embossed the State Emblem and motto in Hindi. The Emblem (but not the motto), the Sun and the rim shall be of platinum. The inscriptions shall be of silver gilt.

3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn round the neck by a white riband two inches in width.

5. The decoration shall be awarded for exceptional service towards the advancement of art, literature and science, and in recognition of public service of the highest order.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons upon whom the decoration is conferred shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

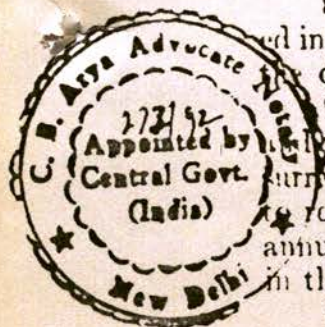
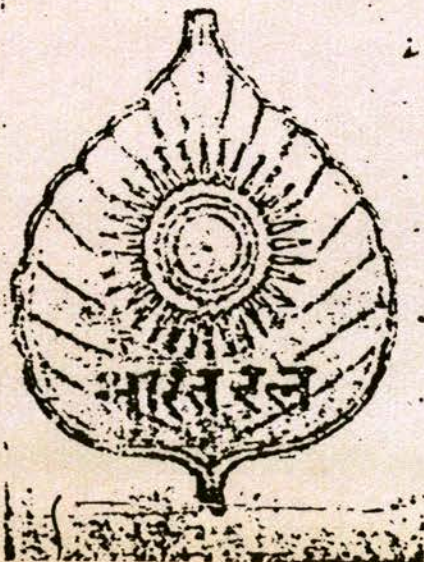
9. The President may cancel and annul the award of the decoration to any person whereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

10. All persons upon whom the decoration BHARAT RATNA was conferred under the regulations issued with Notification No. 1-Pres. 54, dated the 2nd January, 1954 (c.f. S.No. 11.) shall, for all purposes of these Regulations be deemed to be persons on whom the decoration BHARAT RATNA has been conferred by the President.

ANNEXURE BHARAT RATNA

Obverse

Reverse



Postmark

Attested by

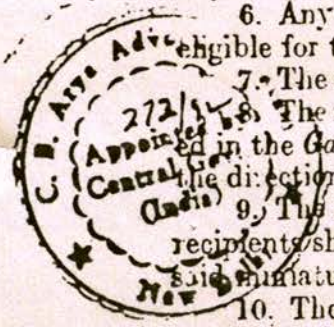
(Signature)
H. C. SPIN (1954)

Secretary
Ministry of Home Affairs

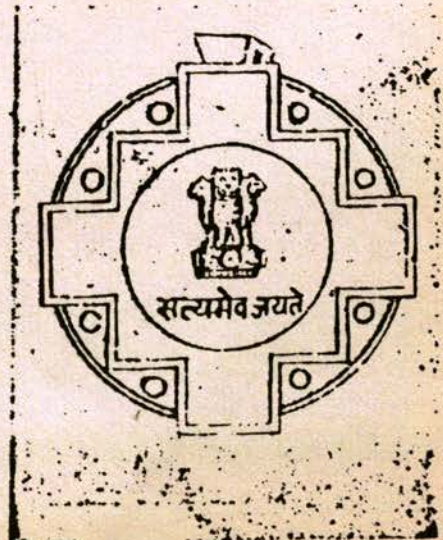
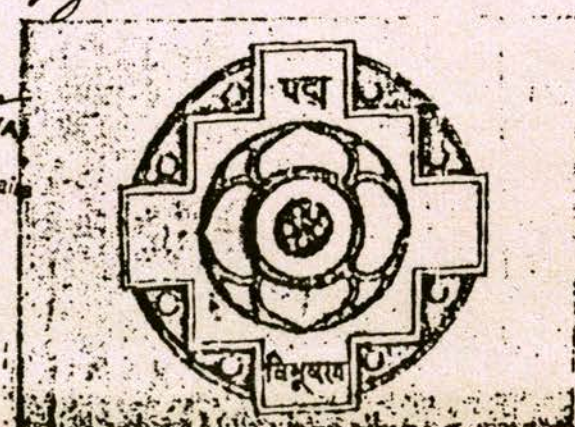
Ministry of Home Affairs

No. 2-Pres./55.—The President is pleased to make the following revised regulations for the award of the decoration PADMA VIBHUSHAN in supersession of those published in Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11) :—

1. The decoration shall be conferred by the President by a Sanad under his hand & seal.
2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally, placed on each side of which shall be a rectangle projecting beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word VIBHUSHAN placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. The rim, the edges and all embossing on either side of the decoration shall be of white gold, except the name of the decoration which shall be of silver gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.
4. The decoration shall be worn by men on the left breast, suspended from a plain lotus pink riband one and a quarter inches in width ; and by women on the left shoulder, suspended from a riband of the same colour and width fashioned into a bow.
5. The decoration shall be awarded for exceptional and distinguished service in any field including service rendered by Government servants.
6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.
7. The decoration may be awarded posthumously.
8. The names of the persons upon whom the decoration is conferred shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.
9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the Padma Vibhushan and a sealed pattern of the said miniature shall be deposited and kept.
10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.
11. All persons upon whom the decoration of PADMA VIBHUSHAN (PAHELA VARG) was conferred under the regulations issued with Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S.No. 11), shall, for all purposes of these regulations, be deemed to be persons on whom the decoration of PADMA VIBHUSHAN has been conferred by the President.



ANNEXURE
Obverse PADMA VIBHUSHAN Reverse



Handwritten notes and signatures, including 'K.C. Srinivasa' and 'Ministry of Home Affairs'.

ANNEXURE I
(CONT'D)

No. 3-Pres./55—The President is pleased to make the following revised regulations for the award of the decoration PADMA BHUSHAN in supersession of those published in Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f.S. No. 11):—

1. The decoration shall be conferred by the President by a Sanad under his hand & seal.
2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting out beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word BHUSHAN placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. The rim, the edges and all embossing on either side of the decoration shall be of standard gold, except the name of the decoration which shall be of gold gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn by men on the left breast, suspended from a plain lotus pink riband one and a quarter inches in width with a broad white stripe in the middle; and by women on the left shoulder, suspended from a riband of the same colour and width fashioned into a bow.

5. The decoration shall be awarded for distinguished service of a high order in any field including service rendered by Government servants.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons upon whom the decoration is conferred shall be published in the *Gazette of India* and a register of all such recipients of the award shall be maintained under the direction of the President.

9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the Padma Bhushan and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the *Gazette of India*.

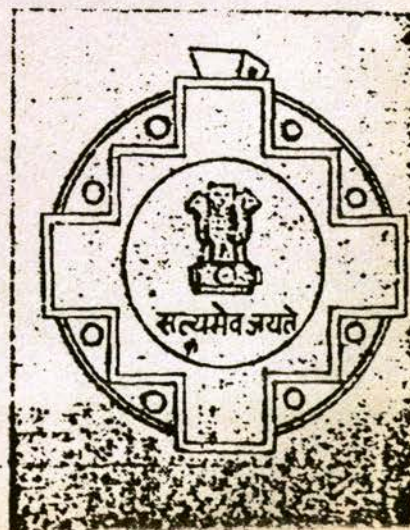
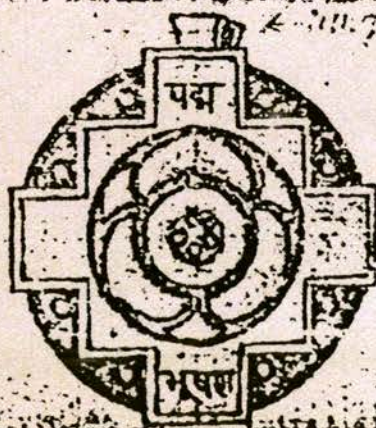
11. All persons upon whom the decoration of PADMA VIBHUSHAN (DUSRA VARG) was conferred under the regulations issued with Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S.No. 11), shall, for all purposes of these regulations, be deemed to be persons on whom the decoration of PADMA BHUSHAN has been conferred by the President.

ANNEXURE

Obverse

PADMA BHUSHAN

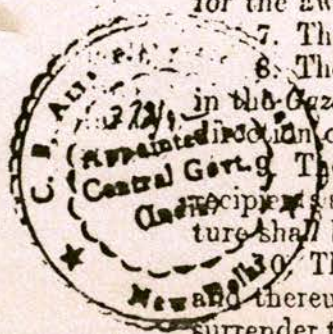
Reverse



(K. C. S. N. 22/54/54)
Secretary
Ministry of Home Affairs

No. 4-Pres./55—The President is pleased to make the following revised regulations for the award of the decoration PADMA SHRI in supersession of those published in Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S.No. 11) :—

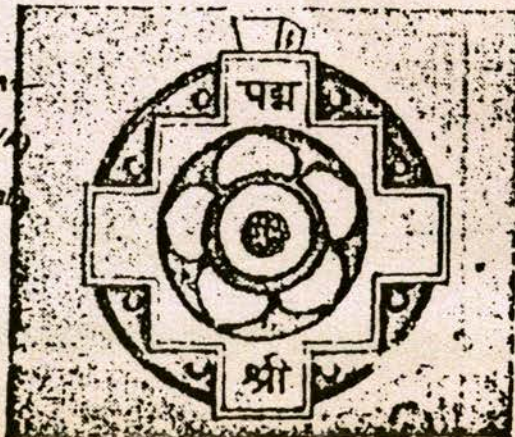
1. The decoration shall be conferred by the President by a Sanad under his hand & seal.
2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting out beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern towards the rim. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word SHRI placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. The rim, the edges and all embossing on either side of the decoration shall be of stainless steel, except the name of the decoration which shall be of silver gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.
4. The decoration shall be worn by men on the left breast, suspended from a lotus pink riband one and a quarter inches in width with two narrow white stripes suspended from a riband of the same colour and width each a quarter inch distant from the edges of the riband; and by women on the left shoulder, fashioned into a bow.
5. The decoration shall be awarded for distinguished service in any field including service rendered by Government servants.
6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.
7. The decoration may be awarded posthumously.
8. The names of the persons upon whom the decoration is conferred shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.
9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the Padma Shri and a sealed pattern of the said miniature shall be deposited and kept.
10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.
11. All persons upon whom the decoration of PADMA VIBHUSHAN (TISRA VARG) was conferred under the regulations issued with Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11) shall, for all purposes of these regulations, be deemed to be persons on whom the decoration of PADMA SHRI has been conferred by the President.



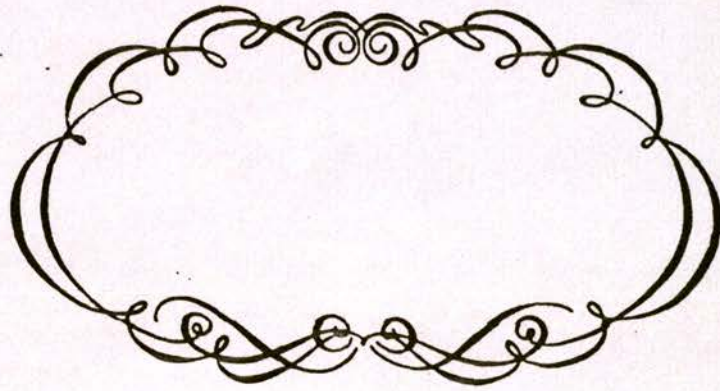
Obverse

ANNEXURE
PADMA SHRI

Reverse



(K. C. SRIVASTAVA)
Section Officer
Ministry of Home Affairs



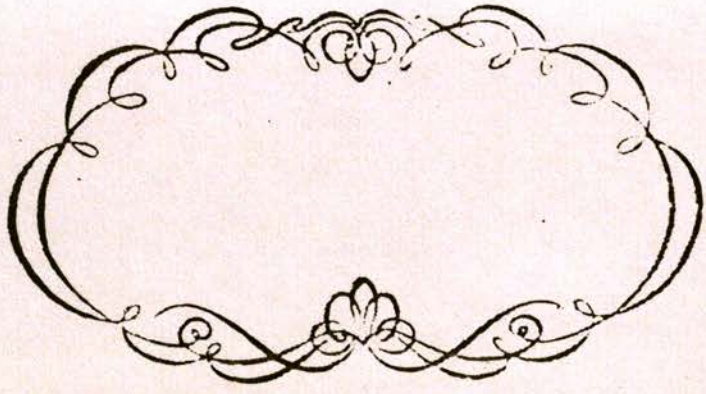
मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
भारत रत्न प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति

17.12.1978

RECEIVED
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
NEW DELHI



मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म विभूषण प्रदान करता हूँ।

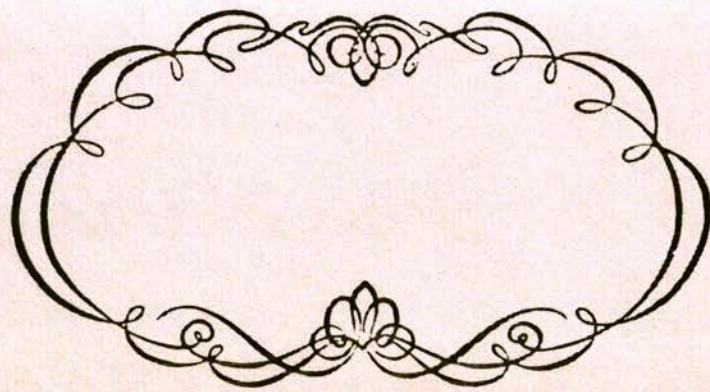
नई दिल्ली
दिनांक

राष्ट्रपति



1934/40

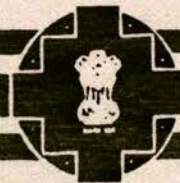
1934/40



मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म श्री प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति



GOVERNMENT OF INDIA
PRESS INFORMATION BUREAUPRESS NOTE

The attention of the Union Home Ministry has been drawn to the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letter heads, invitation cards, posters, books, etc. The awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution, which has abolished titles. It is, therefore, desirable that no Civilian Award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Union Ministry of Home Affairs
New Delhi, Chaitra 28, 1890/April 17, 1968



--- --
(Article 16 of the Constitution of India says :
(1) "No titles, not being a military or academic distinctions, shall be conferred by the State: (2) No citizen of India shall accept any title from foreign State: (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State....").

Abraham

Atul Kumar Singh

(Signature)
(K. C. M. TAVA)
Secretary
Ministry of Home Affairs

TO BE PUBLISHED IN PART I, SECTION 1 OF THE GAZETTE
OF INDIA OF SATURDAY THE 20TH AUGUST, 1977.

PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi, the 8th August, 1977.

No. 65 - Pres/77 - The President is pleased to direct that the following Civilian Awards instituted in 1955 and published in Part I, Section 1 of the Gazette of India vide President's Secretariat Notifications No.1-Pres/55, No.2-Pres/55, No.3-Pres/55 and No.4-Pres/55 dated 8th January, 1955 be cancelled:-



Bharat Ratna

Padma Vibhushan

Padma Bhushan

Padma Shri

(K. C. Madappa)
Secretary to the President

Alcides Luis Goy
(K. C. Madappa)
Ministry of Home Affairs

शनिवार, दिनांक 20 अगस्त, 1977 के भारतीय राजपत्र के भाग I, खण्ड I में प्रकाशनार्थ

राष्ट्रपति सचिवालय

अधिसूचना

नई दिल्ली, दिनांक 8 अगस्त, 1977

सं० 65-प्रेज़/77 - राष्ट्रपति सहर्ष निदेश देते हैं कि 1955 में संस्थापित निम्नलिखित नागरिक उपाधियाँ जिन्हें भारतीय राजपत्र के भाग I, खण्ड I में राष्ट्रपति सचिवालय की अधिसूचनाओं, सं० 1-प्रेज़/55, सं० 2-प्रेज़/55, सं० 3-प्रेज़/55 और सं० 4-प्रेज़/55, जनवरी, 1955, के अधीन प्रकाशित किया गया था, रद्द कर दी जाएँ :-



भारत रत्न
पद्म विभूषण
पद्म भूषण
पद्म श्री

7- श्री. म. क. म. म.

(कै० सी० म. म. म.)

राष्ट्रपति के सचिव ।

A. C. S. (VA)

(K. C. S. (VA))

Section Officer

Ministry of Home Affairs

TO BE PUBLISHED AS A GAZETTE OF INDIA (EXTRAORDINARY) IN PART I
SECTION 1 OF FRIDAY, THE 25TH JANUARY, 1980



PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi, the 25th January, 1980.

No.25-Pres./80 - The President is pleased to cancel the President's Secretariat Notification No.65-Pres./77, dated the 8th August, 1977 by which the Civilian Awards 'Bharat Ratna', 'Padma Vibhushan', 'Padma Bhushan' and 'Padma Shri' were cancelled and to direct that the said Awards shall be re-instituted with immediate effect.

2. The President is also pleased to direct that the said Notification shall not be deemed to have affected in any manner whatsoever the Awards mentioned therein which were granted before the issue of that Notification.

1/3/80

[Signature]

(K.C. MADAPPA)
 Secretary to the President

Attested by

[Signature]
 (K. C. SRIVASTAVA)
 Section Officer
 Ministry of Home Affairs

प्रकाशनार्थः ।

राष्ट्रपति सचिवालय

अधिसूचना

संख्या 25-प्रैज/80 - राष्ट्रपति, राष्ट्रपति सचिवालय की तारीख 8 अगस्त, 1977 की जासूसचना संख्या 65-प्रैज/77 को रद्द करते हैं, जिसके द्वारा 'भारत रत्न', 'पद्म विभूषण', 'पद्म भूषण', 'पद्म श्री' नागरिक उपाधियाँ रद्द की गई थीं और यह निर्देश देते हैं कि उक्त उपाधियाँ तत्काल प्रभावी रूप से पुनः स्थापित हो जाएंगी।

2- राष्ट्रपति यह भी निर्देश देते हैं कि उक्त अधिसूचना में, उसमें उल्लिखित उपाधियों की, जो उस अधिसूचना के जारी होने से पहले प्रदान की गयी थीं, किसी भी प्रकार से प्रभावित नहीं माना जाएगा ।

के सी साक्षा

(वै० सो० मादप्पा)
राष्ट्रपति के सचिव ।

Attested by
 (Signature)
 (Name)
 Secretary
 Ministry of Home Affairs

STATEMENT OF MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS WITH
REGARD TO THE REVIVAL OF THE BHARAT RATNA AND PADMA AWARDS.

30-1-1980

Mr. Speaker, Sir,

The recent decision of the Government to revive the Bharat Ratna and Padma Awards has caused misgivings in some sections of the House and a doubt has been expressed in some quarters that this is not in conformity with the Constitution and in particular Article 18 thereof.

2. At the outset, I would state that the Government yields to none in its respect for the Constitution and its determination to see that the Constitution is observed not only in letter but also in spirit. But it is necessary to see what exactly is the nature of the prohibition contained in Article 18. Article 18 is one of the several Articles dealing with the right to equality. It states that no title, not being a military or academic distinction, shall be conferred by the State.

3. In order to understand the scope of this prohibition, it is necessary not only to ascertain the meaning of the word 'title', but also to have regard to the circumstances in which this Article was adopted by the Constitution-makers. The Constitution-makers had before them the provisions of other Constitutions prohibiting the grant of titles of nobility. Our Constitution-makers did intend to go further than this and to prohibit the conferment of titles which had, during the pre-Independent days, become a symbol to some extent of subordination to a foreign power. Thus, not only were hereditary titles of nobility banned, but even titles like 'Diwan Bahadur' which were expressly referred to by Shri T.T. Krishnamachari while this Article was being discussed.

4. It is clear from a reference to the proceedings of the Advisory Committee on Fundamental Rights that there was a cleavage of opinion on this point and that originally it was intended to prohibit only hereditary titles. However, it was decided to delete the word 'hereditary' and to abolish titles.

5. Nevertheless, it is significant that while proposing the deletion of the epithet 'hereditary', the mover of the amendment, Shri Masani,

made it very clear that it may be 'possible for the Union to honour



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(K. C. S. P. V. A.)
Secretary
Ministry of Home Affairs

some of its citizens who distinguish themselves in several walks of life, like science and the arts, with other kinds of honour not amounting to titles; the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a Free India".

6. Thus, what the Constitution-makers intended to prohibit was what in common parlance is described as a prefix or an addition to the name.

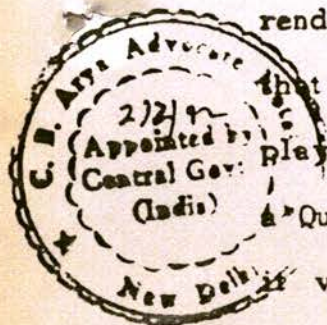
7. The expression "title" has several meanings. According to well-known Lexicons in the context, it would mean an appellation attached to an individual or family in virtue of rank, function, office or attainment.

8. The award of Bharat Ratna as well as Padma Awards are not appellations. The Constitution, in letter and spirit alike, prohibit the State from enabling an individual to set himself apart from others by virtue merely of a grant from the State. There is nothing therein which forbids the State from honouring a distinguished citizen for services rendered by him to the cause of the community. It was for this purpose

that these Awards were conceived of by the very same persons who played an active role in the framing of the Constitution. In reply to a Question in this House itself, the late Shri Jawaharlal Nehru made it very clear on August 25, 1954 that the Awards have no relation to titles and are merely honours conferred for distinguished service of a high order and that any comparison of these with titles would not be correct.

9. In this connection, it may be mentioned that this is not the first occasion when the House had to consider the constitutionality of the National Awards. In 1969, a very senior and respected Member, Acharya Kriplani, introduced a Bill intituled The Conferment of Decorations on Persons(Abolition) Bill, seeking to abolish the Bharat Ratna and Padma Awards on the ground that by such Awards, titles were sought to be brought in by back-door methods. During the debate on this Bill, the constitutionality of these Awards was exhaustively dealt with.

It was pointed out that when the matter was first considered in 1948 by a Committee headed by that eminent jurist Sir B.N. Rau, it came to the conclusion: "The expression 'title' does not necessarily include all honours and decorations".



W. B. Shinde

Atcharya Kriplani

(K. C. SHARMA)
Secretary
Ministry of Home Affairs

10. It was pointed out that the basic assumption made by the mover of the Bill that the awards of these decorations violate the provisions of the Constitution was not correct. No convincing reply was given to this point and the Bill itself was negatived.

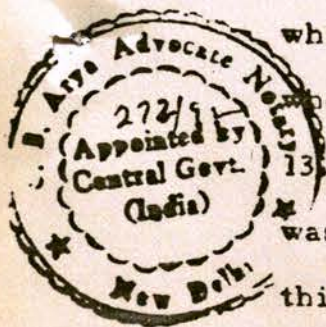
11. In this connection, it is relevant that the system of instituting Awards in 1954 was evolved and approved at a time when the deliberations of the Constituent Assembly were fresh in the minds of the people and by the very same individuals who had played an active part in the framing of and were fully imbued with the spirit of the Constitution.

12. The meetings of the Cabinet wherein this proposal was discussed were presided over by Shri Jawahar Lal Nehru who had an abiding faith in the principles of democracy, socialism and equality and had played an active role in the framing of the Constitution. It would be of interest to mention that at least four meetings of the Cabinet, which went into this question, were attended by Shri T.T. Krishnamachari, who was one of the members of the Drafting Committee of the Constitution.

13. My Hon'ble friend on the opposite side, Shri Jagjivan Ram was present at six of the meetings of the Cabinet which discussed this issue, and was himself a member of the Government which decided to institute these Awards.

14. In his statement made on the 13th July, 1977 announcing the discontinuance of these Awards, the former Prime Minister, Shri Morarji Desai, had stated that this was on the basis of the opinion of the Attorney General who had held that Bharat Ratna and the Padma Awards would fall within the prohibition of grant of titles.

15. In view of the esteem due to the then holder of the high office of Attorney General, I have gone through his opinion with interest and respect, but am unable to share his conclusion. In his opinion, the Counsel recognised that the expression 'title' has a variety of meanings and that the meaning of the word must necessarily depend on the context in which it occurs. But singularly enough, he proceeded to construe it without recourse to the back-ground or genesis of what was being done by the Government in the past or its legislative history.



Attested by

Ministry of Home Affairs

16. It was recognised in the very opinion that there are various distinctions in the shape of decorations, medals etc. which are given by any State, even a democratic State, in recognition of merit in various fields. The Counsel himself expressed a doubt as to whether it could have been the intention that the State should not recognise merit in various fields in customary fashion. This doubt would seem to have arisen from the fact that military and academic titles are expressly exempted from the prohibition contained in Article 18(1).

17. It would not, however, appear to be logical to conclude from the fact that because the State could at a future time grant an academic title like Maha Mahapodhyay (which possibility was referred to by Shri T.T. Krishnamachari in the Constituent Assembly) that no other form of recognition of distinguished service was possible. The express exceptions to the grant of a title can hardly be regarded as a basis for enlarging the scope of the original prohibition imposed by the Article on the meaning of the word title. As a matter of fact, the Counsel himself recognised the anomalies which would flow from his opinion by expanding the scope of the exception and giving to the word 'academic' occurring in the Article a wide meaning so as to cover any recognition in the field of art, law, literature and science generally. In fact, in the concluding portion of his opinion, the Counsel had observed:

"It would not include recognition of meritorious public service or public civil services. This must be regarded as a lacuna wholly accidental".

.../-

Attached herewith

(K. C. S. No. 2798A)
Under Secretary
General Office
Ministry of Home Affairs

- : 5 : -

18. One should not lightly infer the existence of a lacuna in the Constitution by reading it without reference to the pre-existing position and the practice in other democratic countries. Having regard to the history and object of the Article, there is no warrant for coming to the conclusion that the Constitution-makers wanted to deny to the State in India the right or - rather the duty - which other democratic States possess, namely, to recognise and to honour its most distinguished citizens.

19. Having given the matter the most careful consideration, the position which emerges is that there is no room for doubt that the Constitution, as it stands, does not prevent the State from granting recognition to a distinguished son of Mother India. An Award, decoration or a Medal to such a person is not a title which the Constitution-makers sought to interdict.



....

W. B. Talwar

Attended from copy

(Signature)
 (Sd/-) *(Signature)*
 SECRETARY
 MINISTRY OF HOME AFFAIRS

M.P. NO. 1400/92

BEFORE HON'BLE HIGH COURT OF MADHYA PRADESH : INDORE.

S.P. Anand,

120, Joara Compound, INDORE.

= Petitioner.

Vs.

Union of India, through Cabinet Secretary,

Central Government Secretariat Bldg.,

NEW DELHI.

= Respondent No.1

P.V. Narsimharao, Head of Council of

Ministers, & Prime Minister of India,

Central Govt. Secretariat Bldg.,

NEW DELHI.

= Respondent No.2

Smt. Sonia Maino w/o Late Rajiv Gandhi

10, Janpat, NEW DELHI.

= Respondent No.3

PUBLIC INTEREST LITIGATION WRIT PETITION

U/d Art. 226, read with Art. 18, 14, 21, 53, 74 etc.

of Constitution of India, read with AWARDS of

BHARAT RATNA given to parties as hereinafter

submitted:-

1. That this Petitioner has been again obliged to present this PUBLIC INTEREST LITIGATION as citizen of India, acting in BONA FIDE manner for redressing a PUBLIC INJURY which has been committed by the Respondents Nos. 1 & 2 by an act which is contrary to the CONSTITUTIONAL MANDATES ex-facie as hereinafter submitted.

2. That a good number of persons whose names are appearing in INDIA-1990 & India-1991 have been awarded an "AWARD" of "BHARAT-RATNA" -which has been recorded as a CIVILIAN AWARD of the highest rank at page 912 of INDIA-1990 as the one awarded for :-

" EXCEPTIONAL WORK FOR THE ADVANCEMENT OF ART, LITERATURE & SCIENCE & IN RECOGNITION OF PUBLIC SERVICE OF THE HIGHEST ORDER. "

The INDIA-1990 is a Government of India 's PUBLICATION.

Read as advance copy
B. K. S. 9.9.92
case.

3. That Late Rajiv Gandhi had been awarded this AWARD in 1991 posthumous, after Dr. Nelson Mandela had been awarded the same award as 23rd person in 1990 & Dr. Bhim Rao Ambedkar had been awarded as 22nd person posthumous. After awarding the SAID AWARD to Late Rajiv Gandhi, three other persons had been awarded the same award as listed below:-
25. Sardar Vallabh Bhai Patel (Posthumous) awarded in 1991
26. Morarji Bhai -do- "
27. J. R. D. Tata -do- 1992
4. That prior to Dr. Ambedkar, the following other persons also stood awarded the said AWARD of "BHARAT RATNA".
1. Dr. Sarvepalli Radhakrishnan in 1954.
 2. Chakravarti Rajgopalachari " 1954.
 3. Dr. Chandrashekhar V. Raman " 1954.
 4. Dr. Bhagwan Das " 1955.
 5. Dr. Mokshagundam Visvesvaraya " 1955.
 6. Jawhar Lal Nehru " 1955.
 7. Govind Ballabh Pant " 1957.
 8. Dr. Dhondo Keshave Karve " 1958.
 9. Dr. Bidhan Chandra Roy " 1961.
 10. Purshottam Das Tandon " 1961.
 11. Dr. Rajendra Parsad " 1962.
 12. Dr. Zakir Hussain " 1963.
 13. Dr. Pandurang Vaman Kane " 1963.
 14. Lal Bhadur Shastri (Posthumous) 1966.
 15. Indra Gandhi " 1971.
 16. Varahagiri Venkatgiri " 1975.
 17. Kamaraswami Kamraj (Posthumous) 1976.
 18. Mary Teresa " 1980.
 19. Acharya Vinoba Bhave " 1983.
(Posthumous)
 20. Khan Abdul Ghaffar Khan " 1987.
 21. Marudu Gopalan Ramchandran " 1988.
(Posthumous)
5. That a mere GLANCE over the names of the AWARDEES would establish EX-FACIE that Late Rajiv Gandhi was NO MATCH by either standards with any one of the other 26 awardees -

right from Dr. Radhakrishnan to Morarji Bhai & even J. R. D. Tata Esq. - as he had neither done any EXCEPTIONAL WORK for the advancement of ART : LITERATURE : & SCIENCE NOR HE HAD RENDERED ANY PUBLIC SERVICE OF THE HIGHEST RANK OR ORDER as stood done by other awardees like Sardar Patel, Dr. Rajendra PRASAD, Dr. Radhakrishnan, Lal Bhadur Shastri, Purshottam Das Tandon. Similarly, Smt. Indra too had done no such SERVICE which could make her entitled to such an award. Many others too in the list above ex-facie do not appear to be entitled to such award, such as KAMRAJ : VENKATGIRI : JAWHAR LAL NEHRU

GOVIND BALLABH PANT : Dr. Dhondo Keshav Karve : Dr. Bidhan Chandra Roy : Dr. Zakir Hussain : M.G. RAMACHANDRAN : Morarji Bhai : J.R.D. Tata etc. etc. But, all of them have been AWARDED the said AWARD -because there was NO LAW to provide GUIDE-LINE & MEASURES to SCALE DOWN A PERSON before awarding these AWARDS which to many of them stood AWARDED because it so PLEASED to do upon the private CONSIDERATIONS of those who were then in POWER & therefore able to make such AWARDS to persons of their own ARBITRARY SELECTIONS - selections which indicate NO JUST & REASONABLE EXERCISE OF A DISCRETION IN A JUDICIAL & LAWFUL MANNER -but establishes a DISCRETION which in law is ex-facie ARBITRARY & IS MORE DISCRIMINATION than a just discretion - as AWARDS ex-facie appear to have been provided to only a FEW CHOSEN ones - without disclosing PUBLICALLY the GUIDE LINES : SCALES : RELEVANT CONSIDERATION : ACHIEVEMENTS IN LIFE - even in accordance with the ADMINISTRATIVELY FIXED & RECORDED virtues & merits in the INDIA : 1990 as cited above.

6. That having a GLANCE over Late RAJIV GANDHI 's achievements you would find him as one PRIME MINISTER appointed not because of any ABILITIES already established but only because he was the only SON of the DYNASTY & therefore a person whose name was the only then solution for the PARTY in POWER to avoid IN-PARTY FIGHTS & CLAIMS - cum- Counter claims for the office of P.M. He was hardly a good PILOT with NOTABLE exceptional merits & skills as such .This statement is being made as this Petitioner had many occasions to fly with him on the BHOPAL - RAIPUR route upon which he was flying for sometime. HE HAD BEEN NOT EVEN SELECTED BY HER own MOTHER as one to follow her - as it was SANJAY who was near to her for POLITICAL purposes. Entering into his pedigree is not relevant ,but there too there was no special extra-ordinary merit for him . Coming to his role as PRIME MINISTER, he made INDIA to lose a LOT in BOFORS GUN CONTRACTS - by way of COMMISSION or call it any other name as stood alleged from time to time & other DEFENCE ITEMS PURCHASES BROUGHT BHARAT NO GOOD NAME NOR TO RAJIV HIMSELF.

7. That similarly, his handling PUNJAB ACCORD : KASHMIR problems ; AJODIHYA TEMPLE - MOSQUE problem ; Sri-Lanka problem ; DEFICIT BUDGETING : EXCESSIVE OVER-SPENDING knowing well financial crisis then being faced by this NATION U/d the VOTE CATCHING various SLOGANS : TOWARDS the 21st Century slogan : SHARP & TOO HIGH INCREASE in EXTERNAL & INTERNAL DEBTS involving BHARAT in DEBT-TRAP & ultimately making INDIA to do the FORCED SALE /PLEDGE of its GOLD STOCKS damaging its REPUTATION ; infights with Sardar Zail Singh - the man who put him in power - engaging many UNAUTHORISED gentlemen to whisper him with accountability attached to them -who became a sort of TERROR for many innocent & honest EXECUTIVES of the U.O.I. & those in PUBLIC UNDERTAKINGS : IMPORTS made on LIBERAL basis for private interests of only few with NO obligations for EXPORTS - RESHUFFLE IN MINISTRY every now & then i.e. 30 in about 5 years or say ONE / TWO months & NATIONAL LOSS suffered as a result thereof -SEVERE BALANCE OF PAYMENTS PROBLEMS - CORRUPTION & INEFFICIENCY thereby suffered by this Nation - similarly shunting person like ARJUN SINGH from here to there - with FIVE DIFFERENT FOREIGN MINISTERS in FIVE YEARS & DISCONTINUITY of FOREIGN POLICY & NATIONAL LOSS suffered thereby -with one MINISTER SHIV SHANKER holding MINISTRY of FOREIGN AFFAIRS with COMMERCE also held by him during his rule - indicating his putting a HIGHER VALUE on POLITICAL LOYALITY than on MINISTERIAL ABILITY & LOVE for INNER COTERIE who would alone decide who would see the P.M. & WHO NOT at all ? - with no links with the people of Land at all in the real & desired manner - NATIONAL FUNDS RECKLESSLY spent on NEW YEAR 's HOLIDAYS at EXOTIC LOCATIONS with personal friends & sometimes by fixing CABINET MEETINGS at far distant places yielding no benefits to PEOPLE of BHARAT at all - ABUSE of GOVT. MEDIAS DOORSARSHAN etc.

meaning-less AWARDS in ASSAM : MIZO-land etc. etc. are grounds/ which do not entitle him for the award at all.

8. That all the conduct cited above made Sardar Zail Singh to remark that :-

" This country does not belong to any party or any particular family, however, much they may have contributed to its political history. India belongs to the common man."

(See Dt. - 22.3.87 - Illustrated Weekly of India.)

President further remarked : " HE WHO RULES BY ARROGANCE FALLS BY IT." This perhaps came true in the end.

9. That it was Late RAJIV who caused IRREPAIRABLE INJURY to this nation by SHOWING no REGARD for the RULE of LAW & the DIRECTIVE PRINCIPLES of the CONSTITUTION - by acting contrary to SHAH BANO case verdict of our APEX COURT of the LAND & RUSHING AN UNCONSTITUTIONAL BILL & getting it enacted to appease FUNDAMENTALISTS MULLAS & MUSLIMS to POCKET MUSLIM VOTES by UNAUTHORISED APPEASEMENTS -repeating what MKGANDHI Jawharlal : Smt. Indra did & what is now being done by the Respondent No.2, who is bring RELIGION into POLITICS as M.K. GANDHI was the first to do & which caused ultimately PARTITION of BHARAT by one who used to say "PAKISTAN MERE LASH PAR BENEGA" & WHO IN FACT YIELDED TO JINNAH DEMANDS & ACCEPTED TWO NATION THEORY which alone was acted upon for the purposes of the division of BHARAT & its then RESOURCES as on 15.8.47 Thereafter POST ^{OFFICE} BILL was again brought in & got passed by RAJIV only -although Sardar Zail Singh withheld his ASSENT. Again NATIONAL DIGNITY & REPUTATION was damaged. PRIVACY : LIBERTY of the citizens was as much ROBBED by RAJIV thereby as was earlier robbed by his Mother more seriously in the days of EMERGENCY imposed by her to retain POWER somehow. Allegations that MILLITANTS reside in RASHTRAPATI BHAWAN were again heard being made by RAJIV ' MINISTERS & LOYALISTS etc. NO CONSISTENT POLICY IN THE MATTER OF APPOINTMENT OF JUDGES OF HIGHER JUDICIARY WAS AGAIN THEN NOTICED BY PEOPLE in the REGIME of RAJIV only so OPENLY that it became a common talk. FAIRFAX SCANDAL : WEST GERMAN SUBMARINES PURCHASE SCANDAL etc. etc. all go to establish in an UNDISPUTABLE manner that AWARD to him of "BHARAT-RATNA" stood awarded upon extreneous considerations, ignoring the relevant ones & was awarded in an DISCRIMINATORY : IRRATIONAL : UNJUST & ARBITRARY MANNER ONLY.

1. That a mere glance over Art.18 would indicate EXPRESSLY & in an UNDISPUTABLE MANNER that no TITLE including the one called "BHARAT RATNA" as stood awarded by now to 27 persons from 1954 to 1992 till date reportedly could be CONFERRED BY THE STATE including the RESPONDENTS Nos.1 & 2 upon any person at any time after 26-1-1950.
2. That all the awards awarded to the said 27 persons stood awarded in an OPEN BREACH of CONSTITUTIONAL PROHIBITIONS & therefore without the authority of Law & all of them DESERVE to be declared as NO AWARDS at all being UNCONSTITUTIONAL & therefore a NULLITY AB-INITIO.
3. That only award which could fall within the SCOPE of Art. 18 i.e. TITLE BEING A MILITARY OR ACADEMIC DISTINCTION could be saved from the hit of Art.18. As it is, the title of "BHARAT RATNA" as appears ex-facie granted to the persons cited above is NEITHER THE MILITARY DISTINCTION NOR ACADEMIC DISTINCTION - because all these AWARDS stood periodically awarded in an ARBITRARY MANNER AS IT PLEASED THE RULERS of the then time & they ex-facie appear as AWARD having been granted for being a "YES-MAN" of JAWHARLAL during 1954 to 1964 & thereafter of Smt. Indra Gandhi & thereafter as it pleased RAJIV & thereafter the other persons who entered the HIGH OFFICE of PRIME MINISTER - mainly upon POLITICAL CONSIDERATIONS for POLITICAL PURPOSES as the RULERS alone deemed fit with GUIDE-LINES : OR SCALES : OR MEASURES neither available, nor availed & the RESULTANT grants were nothing but a naked ABUSE of POWERS : involving DISCRIMINATIONS & NO JUST DISCRETIONS & POWERS stood exercised to grant such HONOURS UNAUTHORISEDLY WITHOUT THE AUTHORITY of MOTHER-LAW & therefore ANY LAW - only to a few chosen ones.
4. That any such AWARDS were PROHIBITED U/d Art.18 of the CONSTITUTION - no ENTRY stood PROVIDED in any LIST i.e No.I, 2 & or 3 covering subject matter of such TITLES : AWARDS. Hence, on this additional ground there was NO EXECUTIVE POWER available to any one to award these AWARDS at all.

5. That the all AWARDS impugned herein called "BHARAT RATNA" awarded to all theawardees cited above are, therefore, ex-facie UNCONSTITUTIONAL : & have been awarded NOT ONLY in gross disregard of the CONSTITUTIONAL PROHIBITIONS U/d Art.18, but stand awarded without the authority of Law, as NO EXECUTIVE POWER CAN BE EXERCISED IN RESPECT OF ANY SUBJECT / MATTER which is not covered by any ENTRY falling under LIST No.1 i.e. UNION LIST or List No.3 i.e. CONCURRENT LIST & upon which Parliament has no right to enact a Law, & a MATTER which, therefore stood, INTENTIONALLY not covered in the said LISTS & accordingly can not be deemed to be covered by Entry -97 of List No.1, because of the PROHIBITIONS enacted vide Art.18, which is an Art. falling in part III & therefore one of the FUNDAMENTAL RIGHTS guaranteed u/d Constitution itself & which DESERVED NO INFRINGEMENT AT ALL according to the OATH taken by the past & present PRIME MINISTERS & others concerned with either granting of awards or accepting the same.
6. That the impugned AWARDS were ex-facie granted for & in recognition of PUBLIC SERVICE OF HIGHEST ORDER rendered by the said persons & NOT for a MILITARY or ACADEMIC DISTINCTION & therefore DO NOT fall within the EXCEPTION covered by Art.18(1) of the Constitution of India.
7. That Smt. Sonia Maino has been joined as a party to get a chance of hearing before deciding this writ petition upon merits & before passing a judicial order against her husband late Rajiv Gandhi , her mother-in-law late Smt. Indra Gandhi , her Maternal-Grand-Father-in-law Jawhar Lal Nehru & even for all otherawardee-s, if she choses to do so.
8. That in a P.I.L. case, this Hon'ble Court, may suo-motu issue notices to such other awardees as deemed fit at any time during the course of hearing this case. The Petitioner has joined necessary parties as Respondent No.1 & 2 & as a proper party Respondent No.3 herein only at present.

9. That ABSENCE of ARBITRARY POWER is the first essential of the RULE of Law upon which our whole constitutional system is based. In a system governed by Rule of Law, DISCRETION, when conferred upon executive authorities, must be CONFINED within clearly DEFINED limits. Executive has no UNFETTERED DISCRETION under our MOTHER-LAW. The Rule of Law from this point of view means that DECISIONS WOULD BE MADE BY THE APPLICATION OF KNOWN PRINCIPLES & RULES & , in general, such decisions should be predictable & citizen should know where he is ? If a decision is made or taken without any principle or without any rule, as had been the taken in all these cases one after the other, it is UNPREDICTABLE & such a decision is the ANTITHESIS of a decision taken in accordance with the Rule of Law. See: (1951) 342 U.S. 98 and (1770) 4 Burr. 2528 which are relied upon herein also.
10. That assuming without admitting that the Respondents Nos. 1 & 2 had any authority to award these awards, all such 27 awards stood awarded without framing any VALID JUST: FAIR LAW & in the absence of any POWER vested by such LAW, simply by EXECUTIVE FIAT or DECISIONS as it PLEASED EXECUTIVES no such AWARDS could in law be ever made under our MOTHER-LAW, which provides for a GOVERNMENT of LIMITED POWERS only. In law, all the awards stood awarded without following any validly enacted LAW & EXECUTIVE ACTION could not survive in all such CASES, wherein apparently a PREJUDICE is caused to so many citizens & to their feelings & sense of LIBERTY DIGNITY who had to face INJUSTICE & PREJUDICE caused by such AWARDS awarded in an ARBITRARY : DISCRIMINATORY : IRRATIONAL UNJUST MANNER lacking in the essentially required QUALITY of PUBLIC INTEREST. The AWARDS are, therefore, hit by not only Art. 13, but also by Arts. 14 & 21 ex-facie.
11. That when the State action is ex-facie ARBITRARY : IRRATIONAL DISCRIMINATORY & suffers from all such other vices & which go to the root of the matter & NO PLAUSIBLE REASON or PRINCIPLE is indicated nor it is DISCERNIBLE & the impugned

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State action, therefore, APPEARS TO BE EX-FACIE ARBITRARY, the initial burden to prove the ARBITRARINESS is discharged, shifting ONUS on the State to justify its action as FAIR & REASONABLE. If the State is not able to produce material to justify its action as fair & reasonable, the BURDEN on the person like this petitioner herein alleging ARBITRARINESS MUST BE HELD TO BE DISCHARGED.

12. That it is now too well settled that every State action, in order to survive, must not be susceptible to the vice of ARBITRARINESS which is the CRUX of Art. 14 of the Constitution & basic to the Rule of Law. ARBITRARINESS is the very NEGATION of the RULE of Law. SATISFACTION of this basic test in every State action is sine qua non to its validity.

13. That the meaning & true import of ARBITRARINESS is more easily visualized than precisely stated or defined. An obvious test to be applied to the facts & circumstances of each case is to SEE WHETHER THERE IS ANY DISCERNIBLE PRINCIPLE emerging from the impugned act & if so, DOES IT SATISFY THE TEST OF REASONABLENESS? Where a mode is prescribed for doing an act or such prescription deserved to be first formulated before entering into the exercise of doing any act - as was the case herein - & there was no impediment in following that prescription or say procedure or guide-lines, performance of the act otherwise & in a manner which which does not disclose any discernible principle which is reasonable, may ~~itself~~ attract the vice of arbitrariness. EVERY STATE ACTION MUST BE INFORMED BY REASON & IT FOLLOWS THAT AN ACT UNINFORMED BY REASON, IS ARBITRARY. RULE OF LAW CONTEMPLATES GOVERNANCE BY LAWS & NOT BY HUMOR, WHIMS, OR CAPRICES of the men to whom the governance is entrusted ^{for} the time being. It is trite that "BE YOU EVER SO HIGH, THE LAWS ARE ABOVE YOU." This is WHAT MEN IN POWER MUST REMEMBER - ALWAYS. But, alas; it stood grossly forgotten in this case while awarding AWARDS by the Respondents Nos. 1 & 2.

14. That after JAISINGHANI case (AIR 1967 SC 1427) long strides

have been taken in several well known decisions of our APEX Court expanding the scope of JUDICIAL REVIEW in such matters. IT HAS BEEN EMPHASIZED TIME & AGAIN THAT ARBITRARINESS IS ANATHEMA TO STATE ACTION IN EVERY SPHERE & WHEREVER THE VICE PERCOLATES, CONSTITUTIONAL COURTS SHALL NOT BE IMPEDED BY TECHNICALITIES TO TRACE IT & STRIKE IT DOWN. This is the surest way to ensure the MAJESTY of RULE of LAW guaranteed by the Constitution of India.

15. That just having a glance over the names of the 27 persons it stands clear if the award stood awarded in RECOGNITION of PUBLIC SERVICE of the HIGHEST ORDER - assuming but not admitting that such awards could be awarded as Art.18 specifically PROHIBITS awarding such awards - to Late Rajiv Gandhi posthumous - then WHY WAS IT NOT AWARDED to LOK-MANIYA BAL GANGADHAR TILAK : LALA LAJPAT RAI SHERE-PUNJAB : Shri Gopal Krishna Gokhale (whom even the so-called Father of the Nation as is called by Respondents herein -described him as DHARAMATMA GOKHALE - see Introduction page LXVII - appearing in T.K.Tope CONSTITUTIONAL LAW of India & owned him as his GURU also) NETAJI SUBHASH CHANDRA BOSE first of all - as also to Shere Watan : BHAGAT SINGH : RAJ GURU : SUKH DEV : CHANDER SHEKHAR AZAD : Mrs. Annie Beasant : Dr.Keshav Baliram Hedgewar Guruji M.S.Golwalkar : Veer Sawarkar : Bholabhai Desai : Dadabhai Naoraji & going further back in history to Maharaja Partab , Chattarpati Shivaji Maharaj , Rani Jhansi & many others of their status ; dedication ,WHO UNDISPUTABLY rendered PUBLIC SERVICE OF THE HIGHEST ORDER IN FACT & compared to whom RAJIV : INDRA : JAWHAR LAL are no match at all nor the others included in the list of 27 persons cited above.Thus, ARBITRARINESS is ex-facie & no plausible reason or principle is either indicated or is it discernible in this case. The only apparent INDICATION is that POWER stood ABUSED SHWING A SCANT REGARD for RULE of Law & CONSTITUTIONAL MANDATES & CLEAR PROHIBITIONS enacted by the Constitution makers vide Art.18 thereof.

16. That another indication apparently visible is that AWARDS stood distributed as is covered by INDIAN SAYING:-

" ANDHA DATEY REWARIANS MUR MUR APNEY AUP "

Perhpas it was not enough to award one AWARD to JAWHAR LAL, it must go to each & every member of his dynasty, even if all others are DENIED a just claim thereto. Then, it must go only to those who were close to him & NOT to other gentlemen who opposed him like LOK-NAIK JAI PARKASH NARAIN RAM MONHAR LONIA ; ^{Dr. S. P. Mukherjee} S. P. MUKHERJEE. Denial of award to Maulana Abdul Kalam Azad & grant to RAJIV : Smt. Indra & Jawhar lal in same dynasty is un-understandable. Is it because of the facts DISCLOSED in COMPLETE VERSION of INDIA WINS FREEDOM ? Dr. Zakar Hussain was no way senior & or worth more merits than Maulana Azad by any measure - Is 'nt it so ? Then why not Justice J.C. Shah & Justice H.R. Khanna ? Thus, in fact there was no scaling at all. AWARDS were availed as means to promote POLITICAL PURPOSE of the party in POWER in an OPEN BREACH of OATHS the persons in power had taken. Such a NAKED ABUSE of POWER deserves to be UNDONE by a JUDICIAL PROCESS by way of a writ, order, or directions to SNATCH all that which stood awarded to UNDESERVING PERSONS in the past over 40 years, to UPHOLD the CONSTITUTION of India, when the all POLITICIANS in POWER & EXECUTIVES have failed to do their DUTY lawfully so daringly as if we were being ruled by HENNARY 8th or AURANGZEB like King or say SULTAN like BABAR.

17. That the functions of the State & powers granted to it under the CONSTITUTION are such that the exercise thereof is always OPEN for JUDICIAL REVIEW. There is no POLITICAL POWER under which these AWARDS could be awarded & exercise of POWER by the EXECUTIVE could not be challenged herein. In fact, all powers flow from CONSTITUTION & there is no such POLITICAL or SOVEREIGN POWER vested in the EXECUTIVE or even LEGISLATURES or JUDICIARY. Sovereign POWERS have been retained by the PEOPLE of INDIA to thyself alone.

18. That by express injunction in Art. 53(1) of the Constitution the executive power vested in the President is directed to be exercised "IN ACCORDANCE WITH THIS CONSTITUTION & therefore, all awards stand hit by Arts. 14, 18, 21 apart from other relevant Articles covered by Arts. in part IV. The POWER IS INTENDED TO BE EXERCISED IN AID OF AND NOT TO DESTROY CONSTITUTIONAL IDEAS, IDEALOGY & PHILOSOPHY.
19. That on matters on which the CONSTITUTION speaks, no one else can speak. Every organ of the State in this country has to function within the limits prescribed by the MOTHER LAW. It has no POWERS de-hors that conferred on it by the Constitution. Its powers are only those derived from the Constitution. The Government might have acted with the BEST of INTENTIONS. But, the real question is whether it has acted within the POWERS conferred on it by the CONSTITUTION or has ignored CONSTITUTIONAL PROHIBITIONS & MANDATES which none could do ?
20. That in this connection it would be worthwhile to borrow & adapt some of the observations of Hon'ble Chief Justice Patanjali Sastri made in State of Madras V V.G. Row, (AIR 1952 SC 196 at p.199) :-
- If a Law Court in this country at higher judiciary level ~~in this country~~ face up to important & none too easy task of declaring VOID any of the important POLICY DECISIONS taken by the Government, it is not out of any desire to tilt at executive authority in a crusader's spirit, but ~~the/~~ ^{on the alert, waiting for something to happen.} ~~in discharge of a duty plainly laid upon them by the Constitution.~~ THIS IS ESPECIALLY TRUE AS REGARDS THE FUNDAMENTAL RIGHTS, as to which this Hon'ble Court has been assigned the ROLE of a sentinel on the qui vive. In these cases as the present one, courts do not seek to sit in judgement on Government POLICIES. They are the concern of the LEGISLATIVE & the EXECUTIVE ORGANS of the State. But, the CONSTITUTION ^{-ON} has IMPOSED A SPECIAL DUTY ON such Courts i.e. TO PRESERVE & PROTECT THE CONSTITUTION & they only SEEK to DISCHARGE that DUTY in cases like the present one, i.e. TO DO THEIR JOB FOR WHICH SUCH COURTS MAINLY EXIST.

21. That the PRESIDENT cannot do indirectly what the LEGISLATURE CANNOT DO DIRECTLY. It is wrong to mistake a DUTY for a right.
22. That BREACH of any of the Constitutional provisions even if made to further a popular cause is bound to be a dangerous PRECEDENT. DISRESPECT TO THE CONSTITUTION IS BOUND TO BE BROADENED from precedent to precedent & before long the entire Constitution may be treated with CONTEMPT & HELD UP TO RIDICULE. That is what happened to the Weimar Constitution. If the Constitution or any of its provisions have ceased to serve the NEEDS of the PEOPLE, ways must be found to CHANGE them BUT IT IS IMPERMISSIBLE TO BYPASS THE CONSTITUTION or its provisions. EVERY CONTRAVENTION OF THE LETTER OR THE SPIRIT OF THE CONSTITUTION IS BOUND TO HAVE CHAIN REACTION. For this reason also the impugned ORDERS / DECISIONS awarding the said AWARDS of "BHARAT RATNA" to Late Rajiv Gandhi Smt. Indra & Jawhar Lal & others deserve to be declared VOID AB-INITIO & UNCONSTITUTIONAL & NULLITY, in law.
23. That it is not at all OPEN to the EXECUTIVE or for that matter to any of the organs of the State to disregard the provisions of the Constitution merely because those provisions do not accord with its views. The MANDATE of A/ MANDATE/ EVERY PROVISION OF THE CONSTITUTION IS BINDING UPON ALL. NO ONE HAS ANY POWER TO DEPART FROM THAT MANDATE OR CIRCUMVENT IT, whatever, his views about the appropriateness of the mandates may be. If Constitution or any part of it has now become out of tune with the present day society of ours, appropriate steps may be taken to ALTER the CONSTITUTION. IT IS NO VIRTUE TO UPHOLD THE CONSTITUTION WHEN IT SUITS US. WHAT IS IMPORTANT, MAY NECESSARY, IS TO UPHOLD IT EVEN WHEN IT IS INCONVENIENT TO DO SO. The President is a creature of Constitution. HE CAN ACT ONLY IN ACCORDANCE WITH THE CONSTITUTION. The executive possesses no SOVEREIGNTY. There is no analogy between our President & the BRITISH CROWN.
24. That BASIC ISSUE arising for decision in this case is of FAR GREATER SIGNIFICANCE than it APPEARS at first sight herein.

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the question whether such awards could be awarded is of a secondary importance. WHAT IS OF UTMOST IMPORTANCE FOR THE FUTURE OF OUR DEMOCRACY IS WHETHER THE EXECUTIVE IN THIS LAND CAN FLOUT THE MANDATES OF THE CONSTITUTION & SET AT NAUGHT LEGISLATIVE CONSTITUTIONAL ENACTMENTS AT ITS DISCRETION. IF IT IS HELD THAT IT CAN THEN OUR HITHERTO HELD ASSUMPTION THAT IN THIS COUNTRY WE ARE RULED BY LAWS & NOT BY MEN & WOMEN MUST BE GIVEN UP AS ERRONEOUS.

25. That persons who were awarded these awards who accepted them while enjoying the POWER & OFFICE they held when AWARD stood awarded & those in whose case AWARD was awarded posthumous were expected to have the KNOWLEDGE of the CONSTITUTION u/d which they RULED or GOVERNED as GOVERNORS of the people or enjoyed their FREEDOM & under which they reached the status in life claimed by them & which stood recognised. But, it is strange they all IGNORED the BINDING EFFECT of Art.18 - an Article compliance of which is constitutionally guaranteed. Could there be a still worst instance of the fact that all of them were not prepared to FOLLOW even a CONSTITUTIONALLY BINDING MANDATE WHEN THEIR OWN SELF-INTEREST WAS INVOLVED ?

It is no established ex-facie in an undisputable manner that all of them ONLY PREACHED US TO FOLLOW RULE OF LAW - which they themselves flouted INDISCREETLY & too openly as if LAWS did not apply to them holding themselves a different & PRIVILEGED PERSON OR CLASS OF PERSONS & THAT THEY WERE ABOVE LAW.

Their this conduct in itself justifies in law "SNATCHING OF AWARDS" which they did not deserve at all even if they were men or women of learnings & knowledge UNLESS they were holding some ACADEMIC DISTINCTION & it was for that alone that AWARDS stood awarded to them - a consideration which appears missing in this case as awards were awarded as only "POLITICAL INAMS FOR POLITICAL PURPOSES TO PROMOTE THE POLITICAL INTERESTS OF THOSE IN POWER" & perhaps for no other predominant consideration than the one cited hereinbefore.

26. That what applies to BHARAT RATNA AWARD applies with same force to all other awards like "PADMA VIBRUSHAN", "PADMA

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BHUSHAN" "PADMA SHRI" , & all such other awards by whatsoever name called which do not fall within the EXCEPTION enacted u/d Art.18 i.e. " A MILITARY OR ACADEMIC DISTINCTION" & even herein one may be a person of a Military DISTINCTION^N or say "ACADEMIC DISTINCTION" but if he stood awarded this award or any other award not because of this PREDOMINANT CONSIDERATION but in recognition of PUBLIC SERVICE of the HIGHEST ORDER.

27. That all the names , addresses & details of persons to whom such other awards stood awarded till now ^{are} is available with the Respondents Nos. 1 & 2, therefore, it would be necessary to direct the Respondents to place all those cases & details before this Hon'ble Court so as to pass such orders as deemed fit by this Hon'ble Court, so as to declare all such awards also VOID & a NULLITY in all such cases ^{of} awards.

28. That it is also urged that the Government of India i.e. Respondents Nos. 1 & 2 be called upon to file a list of AWARDS given under the name & style of "SAWTANTRA SENANI " to reach the truth whether they too fall within the SCOPE of a TITLE which Art.18 PROHIBITS & WHICH NO STATE CAN CONFER. Here again the details are in the possession of the Respondents & they must indicate & submit to this Hon'ble Court what is & was the real PREDOMINANT CONSIDERATION for conferring the TITLE " SWATANTRA SENANI" & on what basis FREE FIRST CLASS TRAVEL & MONTHLY HANDSOME PAYMENTS are being made by exercising executive power of the Union.

29. That this writ Petition deserves to be treated as a SOCIAL ACTION LITIGATION or say PUBLIC INTEREST LITIGATION , wherein the POWERS of this Hon'ble Court as also its OBLIGATIONS & DUTIES in LAW are different than in ordinary litigation & very wide powers are there to be availed to regulate & supervise the PROCEEDINGS & GRANT RELIEFS by IMPOSING ORDERS negotiating with parties or quasi-negotiating & partly imposing JUDICIAL ORDERS & thereafter supervising compliance thereof also in such cases as has been held in AIR 1988 SC 2211 (Sheela Burse V U.O.I.)

30. That the Respondent No.2 had been holding very important positions & rank in earlier CABINETS of the U.O.I. & in view of the JOINT RESPONSIBILITY conventions of U.K. also prevailing in INDIA wherein we have PARLIAMENTARY DEMOCRACY, the said Respondent is also personally liable to explain his conduct & LEGALITY of the OMISSION on his part for not pointing out that awarding of such AWARDS was not allowed in law & in FACT very EXPRESSLY PROHIBITED with clear words used in Art.18(1). Thereafter, the award to certain persons when he was himself PRIME MINISTER deserve to be explained by him such as for instance to J.R.D.TATA. WAS IT TO POCKET PARSI VOTES ? WAS IT TO POCKET FUNDS FOR PARTY IN POWER TO MEET ELECTION EXPENSES WHICH NONE CAN DISPUTE BY NOW THAT IN FACT THEY GO SKY HIGH IN ALMOST ALL CASES & WHICH STAND DONE OPENLY UNDER THE TABLE BY COLLECTING FUNDS FROM INDUSTRIALISTS & OTHER BIG TRADERS adopting various methods which it is not relevant to detail herein being irrelevant herein. But, main question remains what was the CONSIDERATION in this case that many more deserving persons as cited above remain not AWARDED but this gentleman got preference through Mr. Rao ' hands? People of this land have right to KNOW EVERY PUBLIC ACT, EVERYTHING THAT IS DONE IN A PUBLIC WAY, BY THEIR PUBLIC FUNCTIONARIES, THEY ARE ENTITLED TO KNOW THE PARTICULARS OF EVERY PUBLIC TRANSACTION IN ALL ITS BEARING. To cover with veil secrecy, the common routine business like awarding awards which has no REPERCUSSION on PUBLIC SECURITY, is neither in the interest of PUBLIC nor that of ADMINISTRATION of JUSTICE. It is generally desired for the purpose of parties & POLITICS or personal SELF INTEREST or BUREAUCRATIC ROUTINE. The responsibility of OFFICIALS & MINISTERS to explain & to justify their acts is the CHIEF SAFEGUARD against OPPRESSION & CORRUPTION. For instance, WHY LOKMANIYA BAL GANGADHAR TILAK WAS NOT AWARDED FIRST BUT JRD TATA was selected so immediately by this Respondent No.2 while getting POWER of PRIME MINISTER deserves to be explained

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31. That no prejudice is to be proved for enforcing the fundamental rights .VIOLATION of FUNDAMENTAL RIGHTS ITSELF RENDERS THE IMPUGNED ACTION VOID. (See 1988 II SCC 602 para 55 - A.R. Antulay Vs. R.S. Nayak). Moreover, a specific duty has been cast upon the higher judiciary to PROTECT these rights from INFRINGEMENTS by EXECUTIVE & LEGISLATURE
32. That lastly coming to the question of ADMISSION, it is prayed that there is no CASE-LAW available giving the true INTENTIONS: SCOPE : MEANING of the Art. 18(1) till now as far this Petitioner could see. Therefore, this WRIT PETITION deserves ADMISSION as a matter of right, as it is the JUDICIARY to which DUTY to INTERPRET the CONSTITUTION has been exclusively assigned & this ROLE it can not shirk , delay , evade or re- to play under the MOTHER LAW.
33. That this petition does RAISE an ARGUABLE POINT of a very great CONSTITUTIONAL & PUBLIC IMPORTANCE. Therefore, in view of the decisions reported as AIR 1964 SC 1636 Note (c) (1986) 3 SCC 696 Para 6 : (1986) 3 SCC 156 Paras 26, 38 (1986) 2 SCC 594 Para 10 : (1986) 2 SCC 679 Paras 19, 20 (1985) 1 SCC 641 Paras 77, 79, 80, 82, 99 : AIR 1967 SC 1427 AIR 1967 SC 1170 & AIR 1967 SC 1836 : (1978) 1 SCC 248 para 7 : AIR 1992 SC 999 : AIR 1959 SC 149 : AIR 1955 SC 795 (Per Bose, J): AIR 1970 Andh. Pra 314 : AIR 1974 SC 543 AIR 1988 SC 354 : AIR 1984 Bom. 161 (FB) : AIR 1987 All 56.
34. That this Hon'ble Court like Hon'ble Supreme Court of India under Art. 226 & Art. 32 should in the words of PATANJALI SASTRI, J., regard itself as " PROTECTOR & GUARANTOR OF FUNDAMENTAL RIGHTS " & should declare that "IT CANNOT , CONSISTENTLY WITH THE RESPONSIBILITY LAID ON IT, REFUSE TO ENTERTAIN APPLICATIONS SEEKING PROTECTION AGAINST INFRINGEMENT OF SUCH RIGHTS (vide Ramesh Thapper V State of Madras AIR 1950 SC 124). In discharging the duties assigned to it this Court has to play the ROLE of a SENTINEL on the qui vive (vide State of Madras V. V.G. Row : AIR 1952 SC 196) & IT MUST REGARD IT AS ITS SOLEMN DUTY TO PROTECT THE

SAID FUNDAMENTAL RIGHTS ZEALOUSLY & VIGILANTLY as has been observed by Hon'ble/C.J. Gajendragadkar in Daryao V State of U.P. reported as AIR 1961 SC 1457 when his lordship was only a judge of the apex court. What has been said in the above cases admittedly decided U/d Art.32 applies with GREATER FORCE to cases U/d Art.226 like the present one & this fact is well supported in law declared by the Hon'ble Apex Court itself vide (1984) 3 SCC 161 para 15 & the OBSERVATIONS made therein by a Bench of three Judges stood fully APPROVED by a Constitution Bench of FIVE JUDGES in a Case-law reported as (1987) 1 SCC 395 : M.C.Mheta V U.O.I.. The last case-law is relied upon for the purposes of GATHERING all relevant materials & documents by giving such directions as deemed fit by this Hon'ble Court, as stands recorded in details in the above Case-laws & Paras Nos. 9,10,11,12,13,14 & 15 of (1984) 3 SCC 161 in particular, granting this Hon'ble Court a wide range of powers to exercise as need be felt in this case to protect the FUNDAMENTAL RIGHT covered by Art.18 from such a long infringements one after the other with NO JUDICIAL NOTICE TAKEN THEREOF SUO-MOTU by any High Court in BHARAT or even Supreme Court till now, nor through any P.I.L. writ case till now & it has FALLEN to the fate of this humble layman PETITIONER to present this petition acting PRO BONO PUBLICO to prevent further INFRINGEMENT of Art.18 & to "SNATCH" what stood awarded without the Authority of Law & while acting against the CONSTITUTIONAL PROHIBITIONS & MANDATES which bind one & all in or outside GOVERNMENT, alike.

35. That LAW is a SOCIAL AUDITOR & thus AUDIT FUNCTION CAN BE PUT INTO ACTION ONLY WHEN SOME ONE WITH REAL PUBLIC INTEREST IGNITES the JURISDICTION. The Judiciary cannot be scared by the fear that all & sundry will be LITIGATION-HAPPY & WASTE their time & money & time of the court through false & frivolous cases. In a society where FREEDOM SUFFERS from ATROPHY & ACTIVISM IS ESSENTIAL FOR PARTICIPATIVE PUBLIC JUSTICE, some risks have to be taken & more opportunities OPENED for the PUBLIC MINDED CITIZENS TO RELY ON THE LEGAL PROCESS & not be repelled from it as had been done by the judiciary earlier.

36. That one of the possible reason for the failure on the part of citizens to challenge such AWARDING of AWARDS appears to be ABSENCE of EDUCATION in general amongst around 65% of the population in BHARAT & also therefore amongst a good number of their ELECTED REPRESENTATIVES such general education & in PARTICULAR absence of any education on the CONSTITUTIONAL RIGHTS : DUTIES : JUDICIAL REMEDIES : DIRECTIVE PRINCIPLES ADDRESSED TO THE STATE etc. etc. Therefore, this fact also deserves JUDICIAL NOTICE to issue such directions / orders / or atleast RECOMMENDATION & or lastly SUGGESTIONS through this Hon'ble Court to commence EDUCATION on MOTHER-LAW on AIR & DOORDARSHAN PREDOMINANTLY availing TV time for this purpose, instead of making DOOR-DARSHAN as RAJIV DARSHAN as it stood made in his days & nor either RAO-DARSHAN or then WESTERN style HALLA: GULLA& scenes which are many time OBSCENE & NAKED or at the boarder thereof to escape punishments.

:- RELIEFS SOUGHT & PRAYED :-

In view of the submissions made above, it is prayed :-

- (a) that AWARD of "BHARAT RATNA" awarded to Late Rajiv Gandhi be declared as VOID & a nullity ab-initio, &
- (b) that AWARDS of "BHARAT RATNA", "PADMA VIBHUSHAN", "PADMA BHUSHAN", "PADMA SHRI" & such other awards like "SWATANTRA SENANI" (Freedom fighters), LALIT KALA AKADEMI AWARDS : SANGEET NATAK AKADEMI AWARDS : SAHITYA AKADEMI AWARDS as & where such AWARDS are not found to be those covered by the EXCEPTION enacted in Art. 18 of the Constitution of India, be declared VOID & a nullity ab-initio directing the Respondents to NOT ONLY treat them as SNATCHED & or never awarded at all but to RECOVER BACK PUBLIC FUNDS IF ANY PAID to the awardees in CASH or KIND & where such recovery is not POSSIBLE or feasible, making relevant RECOVERY from the PRIME MINISTER : MINISTERS : OFFICERS CONCERNED from their private HOLDINGS & POSSESSION to ensure that RULE of LAWS only prevail & in particular to end the old practices where WRONG DOERS suffer nothing, recalling the words of WISDOM of Judge: Curtis -Raleigh in some other context but which fit herein also, which have been quoted with approval in (1972) 1 ALL ER 997:-

" THE LAW SHOULD NOT BE SEEN TO SIT BY LIMPLY, WHILE THOSE WHO DEFY IT GO FREE, & THOSE WE SEEK ITS PROTECTION LOSE HOPE. "

- (c) that such other reliefs as deemed fit on the issue of EDUCATION & other matters as deemed fit together with COSTS be also granted covering UNCLAIMED RELIEFS also.

SUBMITTED BY:

(S.P. ANAND)
PETITIONER

Dated: 19-8-92.

BEFORE HON'BLE HIGH COURT OF MADHYA PRADESH : INDORE.

S.P. Anand, Indore.

Petitioner.

Vs.

Union of India & Ors.

Respondents.

APPLICATION FOR GRANT OF AD-INTERIM WRIT

The Petitioner herein prays as under :-

1. That he has filed the enclosed writ petition wherein he has detailed at length the various relevant submissions of facts & Law, which ex-facie indicate that Art. 18 PROHIBITS in no UNCLEAR WORDS that STATE has no POWER to confer any TITLES except those covered by the exception cited therein i.e. MILITARY or ACADEMIC DISTINCTION.
2. That because of absence of general education even upto primary level in BHARAT despite Arts. 45, 46 & GENERAL DUTIES & OBLIGATIONS of the STATE in a country ruled by democracy to save it from MOBOCRACY, there are even today around 65 % persons people of this land who are ILLITERATE & Even DOOR DARSHAN is used only to PROMOTE mainly the PRIVATE INTERESTS of those in POWER or the PARTY in POWER by promoting HERO-SHIPS : giving NEWS about the PERSONALITIES telecasting only FEW good DEEDS repeatedly & AVOIDING to telecast their MISDEEDS & FAILURES of their LIFE which caused this NATION PARTITION & other AVOIDABLE LOSSES & LITERACY is not wilfully improved to RETAIN POWER somehow by vote catching slogans. In this back ground, RESPONDENTS continued infringement of Art. 18 for over around 40 years.
3. That the submissions made in the main petition are relied upon herein without repeating them here to SAVE COSTS & TIME which indicate GOOD PRIMA FACIE CASE & BALANCE OF CONVENIENCE IN GRANT OF PRAYED RELIEF & BY GRANTING THE RELIEF NO INJURY IS GOING TO BE CAUSED to U.O.I. at all.

PRAYER:-

It is, therefore, prayed that by an EX-PARTE ORDER RESPONDENTS Nos. 1 & 2 be directed NOT to award any more AWARDS as impugned in petition.

SUBMITTED BY
(S.P. ANAND)

10.2.92

BEFORE HON'BLE HIGH COURT OF MADHYA PRADESH : INDORE.

S.P. Anand, Indore.

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Petitioner.

Vs.

Union of India & Ors.

=

Respondents.

APPLICATION FILED BY THE PETITIONER

It is respectfully submitted as under:-

1. That while making a study of the various issues of LAW & FACT involved in this case, this Petitioner, has been able to lay his hands upon certain publications, which have been recently published in 1992, which have disclosed an important & relevant information in respect of the EXISTENCE of certain RECORD which would indicate & THROW VERY MATERIAL LIGHT upon the CONTROVERSY raised in this case on the subject of AWARDING of AWARDS like BHARAT-RATNA, & alike other ones, not covered by the EXCEPTION appearing in Art.18, which PROHIBITS granting of any Award excepting those covered by the EXCEPTION therein.
2. That it is stated that a DECISION was taken by the then Government of India in JULY 1977 to do away with the institution of BHARAT RATNA & PADMA AWARDS, as they do not conform to Art.18 of the Constitution. It was also then announced that the Government would ask those who received such awards in the past NOT to DISPLAY them as TITLE on signboards or in stationery. It was further made clear that if any recipient was found using the award as a title, it would be withdrawn. However, these awards were restored in 1980. This information is supported by the fact that there WAS NO AWARD AWARDED DURING 1977 : 1978: 1979, after the one awarded posthumous to Kumarswami Kamraj in 1976 & thereafter, it stood awarded only in 1980 in violation of said decision taken in July, 1977 to MARY TERESA & thereafter to Acharya Vinoba Bhave in 1983.

PRAYER:-

It is, therefore, prayed that Respondent No.1 & 2 be kindly directed to PRODUCE the ORIGINAL CASE RECORDS wherein decision of 1977 & thereafter of 1980 is recorded

SUBMITTED BY:

PETITIONER.

DATED: 20-8-1991.

M.P.NO. 1400/92

BEFORE HON'BLE HIGH COURT OF MADHYA PRADESH : INDORE.

S.P. Anand, Indore. = Petitioner.

Vs.

Union of India & Ors. = Respondents.

AFFIDAVIT IN SUPPORT OF WRIT PETITION

& APPLICATION FOR AD-INTERIM WRIT:-

I declare that :-

1. My name is Satya Pal Anand S/o Shri Sahibditta Mal Anand.

My age is 62 years. I am presently residing at 120, Joara Compound, INDORE. I am doing framing etc. etc.

2. That I have presented enclosed WRIT PETITION & an Application for grant of Ad-interim writ therewith.

3. That the facts stated therein & pleadings raised therein of LAW are true to the best of my own information & knowledge.

Dated: 19-8-92.

Satya Pal
(S.P. ANAND)
DEPONENT.

DECLARATION.

I , Satya Pal Anand S/o Shri Sahibditta Mal Anand, do hereby solemnly declare that this declaration of mine is TRUE to the best of own KNOWLEDGE & INFORMATION & BELIEFS & nothing is declared therein which is FALSE nor anything has been CONCEALED therein.

Dated: 19-8-92.

Satya Pal
(S.P. ANAND)
DEPONENT.

प्रकीर्ण सिविल/दाण्डिक/सामान्य क्रमांक M.P.1400/92

S.P. Anand

120, Jaora Compound, Indore

विरोधी पक्षकार

Union of India, thr. Cabinet
Sec. Central Govt. Secretariat Bldg
New Delhi & for Ors.Petition under Article 226/227 of the
Constitution of IndiaMHA may please
take urgent action
against the stay

के लिये आवेदनपत्र।

याचिका आवेदक के वकील श्री SP. Anand द्वारा

दिनांक 24.8.92 199 को प्रस्तुत की गई।

आवेदनपत्र दिनांक 25.8.92 को

माननीय न्यायमूर्ति श्री VS. Kokje

और माननीय न्यायमूर्ति श्री MW. Deo

के समक्ष आवेदक के वकील श्री SP. Anand petition in person...

और विरोधी पक्षकार के वकील श्री X की उपस्थिति

में अन्तिम सुनवाई के लिये प्रस्तुत किया जाना था। न्यायालय द्वारा निम्नलिखित आदेश पारित किया गया:—

आदेश

25.8.92.

Heard Shri S.P. Anand, the petitioner in person.

This is a petition challenging the conferment of the honour of Bharat Ratna on various personalities. According to the petitioner the conferment of the aforesaid honour is in violation of Art.18 of the Constitution. The respondents No.2 and 3 in the petition are Shri

P.V.Narsimha Rao, the Prime Minister of India and Smt. Sonia Maino. A perusal of the petition would show that these respondents have no connection with the issue involved. We, therefore, direct that the names of these respondents no.2 and 3 be deleted from the array of Respondents. Necessary amendment may be made within a week. Having heard the petitioner we are satisfied that the petition raises arguable points. The petition is therefore, admitted against the Respondent no.1. U.O.I. Issue notice to the respondent no.1 on payment of P.F. within a week. Notice to be sent by registered Post A.D. A copy of the petition be also supplied to Shri B.G.Nema, learned standing counsel for U.O.I. in this court within a week. Security cost dispensed with.

13) Identical sets be filed within ~~an~~ a month. Notices be made within a month. The returns be filed within a month from the date of ~~9th June 1992~~.
The returns be filed within a month from the date of service of the notice.

Also heard on I.A.No.4096/92 and 4100/92. Issue notices of these applications as well on payment of P.F.within a week. In the meanwhile the respondent no.1 shall not award the honour of Bharat Ratna Padma Vibhushan, Padma Bhushan, Padma Shri, until further Orders. C.C. on payment of charges.

Sd/V.S.Kokje
JUDGE

Sd/ M.W.Deo
JUDGE.

Endt.no. 10326
28/8/92

Copy forwarded to the Union of India, thr. Cabinet Secretary Central Government Secretariat Bldg. New Delhi for information and necessary action.

A. P. Rao
Addl. Registrar.

20/8

IN THE HIGH COURT OF MADHYA PRADESH

JABALPUR BENCH - INDORE

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MISCELLANEOUS PETITION NO.1400 OF 1992In the matter of :S.P. ANAND

:::: PETITIONER

VERSUS

UNION OF INDIA

:::: RESPONDENT

COUNTER AFFIDAVIT ON BEHALF OF UNION OF INDIA

I, V.P. Bhatia, S/o late Shri M.L. Bhatia aged 50 years working as Under Secretary to the Government of India, Ministry of Home Affairs, residing at 5/602, Lodhi Colony, New Delhi-110003 do hereby solemnly affirm and state as follows:-

1. That I am conversant with the facts of the case as borne out by the official records pertaining to the matter and I am as such competent to swear this affidavit on behalf of the Union of India and I am authorised to do so.

2. That I have read a copy of the Misc. Petition filed by the Petitioner herein under Article 226/227 of the Constitution of India in this Hon'ble Court and have understood the contents thereof. I hereby deny all the averments made in the said petition by the petitioner unless the same are expressly and specifically admitted by me hereafter. I further submit that the aforesaid Misc. Petition is devoid of any merit or substance and deserves to be rejected outright by this Hon'ble Court.

3. The Respondent herein craves leave of this Hon'ble Court to make the following Preliminary Submissions before adverting to a parawise reply.

4. It is submitted that in the year 1948, when the Constituent Assembly was discussing various articles of the new Constitution, the present Article 18 of the Constitution was at that time numbered as Article 12 and read as under:-

"No title shall be conferred by the State."

...2/-



Discussions on this article were held on 30th November and 1st December, 1948. During discussions, the majority opinion was against the retention of titles bestowed by the British Government, but there was general agreement regarding the retention of military and academic distinctions. The article as finally adopted and renumbered as Article 18(1) read as under:-

"No title, not being a military or academic distinction, shall be conferred by the State."

It is submitted that, as the facts stated hereinafter will show, the word title was used in the Article in a limited sense in the context of the then prevalent system of titles being conferred by the British Government. It did not cover recognitions for exceptional and distinguished services rendered by citizens by conferment of awards and decorations.

5. The question of institution of a system of honours and awards after Independence was first considered in 1948 by a Committee known as the Prime Minister's Committee on the institution of a system of Honours and Awards for India, headed by Shri B.N. Rau, who was then the Constitutional Adviser to the Government of India. In its first report submitted to the Prime Minister on 9th March, 1948, the Committee considered the question whether awards of any kind would be consistent with the provisions of the Article of the Draft of the new Indian Constitution and after consulting the Constitutions of certain other countries, came to the conclusion that the expression "title" did not necessarily include all "Orders and Decorations". The Committee, therefore, proceeded on the basis of this thinking that the "Orders and Decorations" carrying no title, were not meant to be prohibited under the new Indian Constitution.

6. While the Constitution has abolished titles, nothing contained in it debars the Government from extending recognition to individual acts of outstanding merit by way of 'Orders and decorations', in



Bhale



...3/-

the sphere of social work, art, science and literature, to acts of gallantry in the battle field and any other fields of service and to acts of conspicuous devotion to duty in general.

7. The Government approved the institution of Bharat Ratna in September, 1952. In May, 1953, the Government considered the question of instituting a medal corresponding to the "Kaiser-i-Hind" medal and decided that there should be an order to be called "The order of the Lotus" having 3 classes viz. (i), (ii) and (iii) and that this order might be awarded for distinguished service in any field including services rendered by the Government servants in Civil Employment. A view was also taken that these awards were not to be regarded as titles in terms of Article 18(1) of the Constitution.

8. In view of the position stated above, these awards were then formally instituted in January, 1954 by issue of two Presidential Notifications No.1-Pres./54 and No.2-Pres./54 dated 2nd January, 1954 which were subsequently superseded by four fresh Notifications namely No.1-Pres./55, 2-Pres./55, 3-Pres./55 and 4-Pres./55 dated the 8th January, 1955. The purpose for which these awards are given are as follows:-

NAME OF THE AWARD

Bharat Ratna

Padma Vibhushan

Padma Bhushan

Padma Shri

PURPOSE FOR WHICH IT IS GIVEN

For exceptional Service towards the advancement of art, literature & science & in recognition of public service of the highest order.

For exceptional and distinguished service in any field including service rendered by Govt. servants.

For distinguished service of a high order in any field including the service rendered by Govt. servants.

For distinguished service in any field including service rendered by Govt. servants.

PPS



The aforementioned Presidential Notifications also provide that a person without distinction of race, occupation, position or sex shall be eligible for these awards and also that the decorations may be awarded posthumously. Copies of the aforesaid notifications are annexed hereto and marked Annexure-I. The forms of the Sanads referred to in the Notifications are annexed hereto & marked Annexure-II.

9. In the year 1969 and again in the year 1970, the late Acharya J.B. Kripalani, who was then a Member of the Lok Sabha, moved a non-official Bill for the abolition of the awards mentioned above. In the draft statement of Objects and Reasons appended to the Bill, the following main points were stated:-

- (a) Although titles have been abolished under Article 18 of the Constitution, they are sought to be brought in by the backdoor in the form of decorations.
- (b) the decorations are not awarded according to merit and the Government of the day is not the best judge of the merits or eminence of the recipients.

The Bill was opposed in Parliament by Government on the following grounds:-

- (i) In the Constitutions of other countries a clear distinction was drawn between titles and honours or decorations. Art. 49 of the Constitution of U.S.S.R., contains separate provisions regarding the institution of decorations, honours, medals and titles of honour. There is thus a distinction between titles and decorations.
- (ii) Bharat Ratna and Padma Awards are decorations and not titles. Therefore, the basic assumption made by Acharyaji that the award of these decorations violates the provisions of the Constitution is not correct.
- (iii) Government invites recommendations for these awards and these are processed through a very elaborate process of screening. To say that Government is not the best judge to make these awards is not correct because all possible precautions are taken and only such names are suggested and accepted which are really found fit for these high awards

that are given to them.

The Bill when put to vote was defeated.

10. A Press Note was issued by the Government of India on April 17, 1968 making it abundantly clear that the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letterheads, invitation cards, posters, books etc. is against the scheme of the Government as the awards are not titles and their use alongwith the names of individuals is contrary to the spirit of the Constitution which has abolished titles. A true copy of the said Note is annexed herewith as Annexure-III. It was also emphasised in the Press Note that no civilian awards should be affixed or prefixed with the name of the awardee to give an appearance of a title.

11. In August, 1977 the institution of the Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri was cancelled, vide Notification No.65-Pres./77 dated 8th August, 1977, a true copy of which is annexed hereto as Annexure-IV.

12. In January, 1980 Government revived these awards. A true copy of the Notification No.25-Pres./80 dated 25th January, 1980 by which the earlier Notification No.65-Pres./77 dated 8th August, 1977 was cancelled is annexed hereto as Annexure-V. In order to quell all doubts in the matter, on 30th January, 1980, the then Minister of Law, Justice and Company Affairs made a statement in the Lok Sabha with regard to the revival of the Bharat Ratna and Padma Awards. In this statement, he referred to the then decision of the Government to revive the Bharat Ratna and Padma Awards which had caused misgivings in some sections of the House and raised doubts in some quarters that this was not in conformity with the Constitution and in particular Article 18 thereof. He made out in the statement that in order to extend the scope of the prohibition contained



in Article 18, it is necessary not only to ascertain the meaning of the word 'title' but also to have regard to the circumstances in which this Article was adopted by the Constitution-makers. The Constitution-makers had before them the provisions of other Constitutions prohibiting the grant of titles of nobility. Our Constitution-makers did intend to go further than this, and to prohibit the conferment of titles which had, during the pre-Independence days, become a symbol to some extent of subordination to a foreign power. Thus not only were hereditary titles of nobility banned, but even titles like 'Diwan Bahadur' which were expressly referred to by Shri T.T. Krishnamachari while this Article was being discussed. He further stated that it was clear from a reference to the proceedings of the Advisory Committee on Fundamental Rights that there was a cleavage of opinion on this point and that originally it was intended to prohibit only hereditary titles. However, it was decided to delete the word 'hereditary' and to abolish titles. Nevertheless, it is significant that while proposing the deletion of the epithet 'hereditary', the mover of the amendment, Shri Masani, made it very clear that "it may be possible for the Union to honour some of its citizens who distinguish themselves in several walks of life, like science and the arts, with other kinds of honours not amounting to titles; the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a free India." A true copy of the said statement made by the Hon'ble Minister of Law, Justice and Company Affairs in the Lok Sabha on 30th January, 1980, is annexed herewith as Annexure-VI.

/BShahu



PARAWISE REPLY:

13. The contentions in para 1 are incorrect and are denied. It is denied that any violation of any Constitutional mandate has occurred in the instance of the Respondent. The awards conferred by the Respondent are not titles but are decorations.

14. The contentions in paras 2,3 and 4 do not require any reply.

15. With reference to the contentions in para 5 it is stated that the allegations made therein are incorrect and baseless and they are hereby denied. It is stated that the awards were conferred after the matter was carefully considered at the highest level in the Government.

16. The contentions in paras 6 and 7 are incorrect and are denied. The wild allegations made by the petitioner are neither relevant nor material and are denied.

17. The contentions in para 8 do not require any reply.

18. The contentions in para 9 are incorrect and are denied.

REPLY TO GROUNDS:

19. With reference to the contents of Ground 1, it is stated that the awards like Bharat Ratna etc. are only decorations and do not constitute titles as would be evident from the preliminary submissions.

20. The averments in Ground 2 are incorrect and are denied. It is denied that the conferment of the award of Bharat Ratna is a breach of Constitutional prohibitions.

21. With reference to the averments in Ground 3 it is submitted that titles are different from decorations. Bharat Ratna & Padma awards are decorations, not titles. Hence there is no violation of the provisions of Article 18 of the Constitution. Further, it is not correct to say that these awards have been given in an arbitrary manner. All recommendations for these awards are processed through a very elaborate process of screening and all possible pre-cautions are taken to award

1/13/2012



...8/-

the decorations only to such persons who are really found fit for these high awards.

22. With reference to the contentions in Grounds 4 and 5 it is submitted that the Bharat Ratna and Padma Series of awards are decorations and not titles. The State has the inherent right to confer these decorations.

23. With reference to the contents of Ground 6 it is stated that Article 18(1) of the Constitution does not prohibit award of decorations but prohibits only conferment of titles.

24. The contentions in Grounds 7 and 8 do not require any reply.

25. With reference to the contentions in Ground 9 it is stated that these awards have not been conferred arbitrarily. They have been conferred after careful consideration of the merits of the awardees.

26. With reference to the contentions in Grounds 10 to 14 it is stated that there is no arbitrariness as alleged. The awards are conferred in recognition of exceptional merit in diverse fields. The merits of the awardees are adjudged carefully before deciding on the awards. It is denied that there is any violation of any article of the Constitution.

27. With reference to the contents of Grounds 15 and 16 it is stated that while the petitioner can recommend candidates for these awards, it is not for him to decide finally as to who should be given these awards. It is for the Government to adjudge the merits of the candidates and take a decision.

28. With reference to the contents of Ground 17 it is stated that the State has a duty to honour persons for exceptional or distinguished services rendered, as prescribed in the preliminary submissions.

29. The contentions in Ground 18 are misconceived and are denied.

30. With reference to the contentions in Ground 19 it is stated that the Government has not acted in any manner contrary to the provisions of the Constitution.

PPShah



31. The contents of Grounds 20 and 21 do not require any reply. 121
32. The contentions in Ground 22 are misconceived and are incorrect. There is no question of declaring the decorations awarded as null etc. as stated by the Petitioner.
33. The contentions in Grounds 23 to 28 are misconceived and incorrect and are denied.
34. The contentions in Ground 29 clearly show the frivolous and vexatious nature of the proceedings launched by the petitioner and for the reasons stated above, the instant petition deserves to be rejected outright.
35. The contentions in Ground 30 do not require any reply as Respondent No.2 has been deleted from the Writ Petition.
36. The contentions in Ground 31 do not require any reply. It is stated that on account of awarding the decoration mentioned therein, by the Government, the fundamental rights of the petitioner are in no way violated.
37. With reference to the contentions in Ground 32 it is stated that the provisions of Article 18(1) of the Constitution have been incorrectly understood by the petitioner and hence these contentions are not sustainable or tenable.
38. With reference to the contentions in Ground 33 it is stated that there is no question or issue that arises in the instant matter which has any great public importance or constitutional importance as alleged.
39. The contentions in Grounds 34 to 36 do not require any reply.
40. With reference to the reliefs sought by the petitioner under para 36(a) (b) and (c) it is stated that the petitioner has attacked only one case with reference to the awards of the said decoration and this by itself shows that the petitioner is mistaken in claiming that all the awards given by the Government are to be declared null and void. Further, even in the case referred to by the petitioner it is for the Government to decide whether the awardee deserves the award and as such there is no question of any violation of Constitutional Provisions as already stated above. It is further stated that the giving of awards referred to by the petitioner in no way violates the

provisions of Article 18 of the Constitution.

41. In view of the foregoing submissions it is submitted that the instant petition filed by the petitioner does not raise any issue of general public importance and is totally devoid of any merit or substance and as such the same merits outright rejection by this Hon'ble Court. It is prayed accordingly.

[Signature]
DEPONENT

Verification:

I, the abovenamed deponent, do hereby verify the contents of the above affidavit as true and correct to my knowledge based on the official records pertaining to the matter and that no part of it is false and nothing material is concealed therefrom.

Verified at New Delhi on 25th November, 1992.

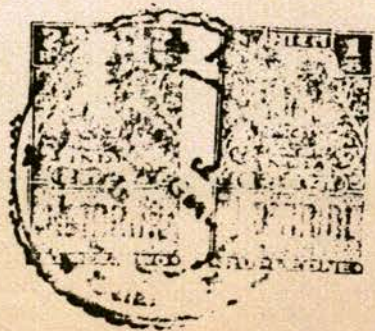
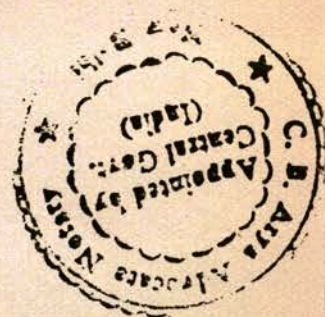
[Signature]
DEPONENT

Solemnly affirmed and signed before me by the deponent who is personally known to me on this the 25th day of Nov 1992 at my office at

Certified that the foregoing Statement was declared to be an affirmation, before me and has been read over to the deponent who has admitted it as correct.

Notary, DELHI

25 Nov 1992



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OFFICE OF THE SECRETARY TO THE PRESIDENT

NOTIFICATIONS

New Delhi, the 2nd January 1954

No. 1-Pres./54.—The President is pleased to institute an award to be designated "Bharat Ratna" and to make the following Regulations:—

1. The decoration shall be in the form of a medal and styled and designated "Bharat Ratna" (hereinafter referred to as the medal).

2. The medal shall be circular in shape, one and three-eighth inches in diameter, with rims on both sides. The medal shall be made of Gold. On the obverse side of the medal shall be embossed the Sun in the centre with rays and the words "Bharat Ratna" (in Hindi) above the Sun along the upper edge of the medal and a floral wreath along the lower edge. On its reverse shall be embossed the design of the State Emblem in the centre and the words "Satyameva Jayate" (in Hindi) along the lower edge and a suitable floral wreath at the top along the upper edge. The fittings shall be of a standard pattern. A sealed pattern of the decoration shall be deposited and kept.

3. The medal shall be worn round the neck by a white riband one and a quarter inches in width.

4. The medal shall be awarded for exceptional services towards the advancement of Art, Literature and Science, and in recognition of public service of the highest Order.

5. The decoration shall be conferred by the President.

6. The names of those persons, upon whom the decoration may be conferred, shall be published in the Gazette of India, and a Register thereof maintained under the direction of the President.

7. Any person without distinction of race, occupation, position, or sex shall be eligible for the medal.

8. The President may cancel and annul the award of the medal to any person and thereupon the name of such recipient in the Register shall be erased and the recipient shall be required to surrender the medal; but it shall be competent for the President to restore the decoration when such cancellation and annulment has been withdrawn.

9. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

No. 2-Pres./54.—The President is pleased to institute an award to be designated "Padma Vibhushan" in three classes, namely: "Pahela Varg", "Dusra Varg" and "Tisra Varg" and to make the following Regulations:—

1. The decoration shall be in the form of a medal and styled and designated "Padma Vibhushan" (hereinafter referred to as the medal).

2. The medal shall be circular in shape, one and three-eighth inches in diameter, with rims on both sides. The "Pahela Varg" medal shall be Gold Gilt, the "Dusra Varg" of Standard Silver and the "Tisra Varg" of Bronze. On the obverse side of the medal shall be embossed a lotus flower in the centre and the words "Padma Vibhushan" (in Hindi) above the lotus along the upper edge of the medal and a floral wreath along the lower edge. On its reverse shall be embossed the design of the State Emblem in the Centre and the words "Desh Seva" (in Hindi) along the lower edge and a lotus wreath at the top along the upper edge. The fittings shall be of a standard pattern. A sealed pattern of the decoration shall be deposited and kept.

3. The medal shall be suspended from the left breast by a riband one and a quarter inches in width. The ribands of the three classes of the medal shall be as follows:—

Pahela Varg:—Lotus-coloured (Pink) silk divided into two equal segments by a white vertical line.

Dusra Varg:—Lotus-coloured (Pink) silk divided into three equal segments by two white vertical lines.

Tisra Varg:—Lotus-coloured (Pink) silk divided into four equal segments by three white vertical lines.



4. The medal shall be awarded for distinguished public service in any field including service rendered by Government servants.

Pahela Varg shall be awarded for exceptional and distinguished service.

Dusra Varg shall be awarded for distinguished service of a high order.

Tisra Varg shall be awarded for distinguished service.

5. The decoration shall be conferred by the President.

6. The names of those persons, upon whom the decoration may be conferred shall be published in the Gazette of India, and a Register thereof maintained under the direction of the President.

7. Any person without distinction of race, occupation, position, or sex shall be eligible for the medal.

8. If a recipient of the medal of any of the three classes again renders such distinguished service as would have made him or her eligible to receive the medal of the same class, such further distinguished service shall be recognised by a Bar to be attached to the riband by which the medal is suspended and, for every such subsequent distinguished service an additional Bar shall be added. For every such bar, a replica of the medal in miniature shall be added to the riband when worn alone.

9. If a recipient of the medal of any of the three classes shall again perform such distinguished service as would have made him or her eligible for the award of a medal of a class different from the one already received, such further distinguished service shall be recognised by the award of another medal of the appropriate class.

10. The miniature medal which may be worn on certain occasions by recipients shall be half the size of the medal, and a sealed pattern of the said miniature medal shall be deposited and kept.

11. The President may cancel and annul the award of the medal to any person and thereupon the name of such recipient in the Register shall be erased and the recipient shall be required to surrender the medal; but it shall be competent for the President to restore the decoration when such cancellation and annulment has been withdrawn.

12. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

SHAVAX A. LAL,
Secy. to the President.



Alfred ...

(K. ... 20/10/54) (VA)

Ministry of Home Affairs

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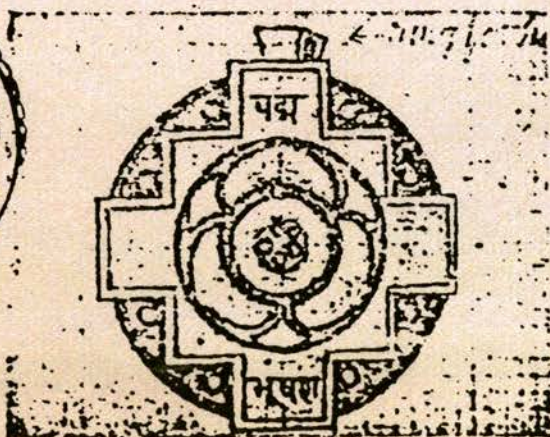
Not. No. 3 Pres./55—The President is pleased to make the following revised regulations for the award of the decoration PADMA BHUSHAN in supersession of those published in Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11):—

1. The decoration shall be conferred by the President by a Sanad under his hand & seal.
2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting out beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word BHUSHAN placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. The rim, the edges and all embossing on either side of the decoration shall be of standard gold, except the name of the decoration which shall be of gold gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.
4. The decoration shall be worn by men on the left breast, suspended from a plain lotus pink riband one and a quarter inches in width with a broad white stripe in the middle; and by women on the left shoulder, suspended from a riband of the same colour and width fashioned into a bow.
5. The decoration shall be awarded for distinguished service of a high order in any field including service rendered by Government servants.
6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.
7. The decoration may be awarded posthumously.
8. The names of the persons upon whom the decoration is conferred shall be published in the *Gazette of India* and a register of all such recipients of the award shall be maintained under the direction of the President.
9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the Padma Bhushan and a sealed pattern of the said miniature shall be deposited and kept.
10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the *Gazette of India*.
11. All persons upon whom the decoration of PADMA VIBHUSHAN (DUSRA VARG) was conferred under the regulations issued with Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S.No. 11), shall, for all purposes of these regulations, be deemed to be persons on whom the decoration of PADMA BHUSHAN has been conferred by the President.

ANNEXURE
PADMA BHUSHAN

Obverse

Reverse



Ministry of Home Affairs

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No. 4-Pres./55—The President is pleased to make the following revised regulations for the award of the decoration PADMA SHRI in supersession of those published in Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S.No. 11) :—

1. The decoration shall be conferred by the President by a Sanad under his hand & seal.
2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally placed on each side of which shall be a rectangle projecting out beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern towards the rim. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word SHRI placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. The rim, the edges and all embossing on either side of the decoration shall be of stainless steel, except the name of the decoration which shall be of silver gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn by men on the left breast, suspended from a lotus pink riband one and a quarter inches in width with two narrow white stripes suspended from a riband of the same colour and width each a quarter inch distant from the edges of the riband; and by women on the left shoulder, fashioned into a bow.

5. The decoration shall be awarded for distinguished service in any field including service rendered by Government servants.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

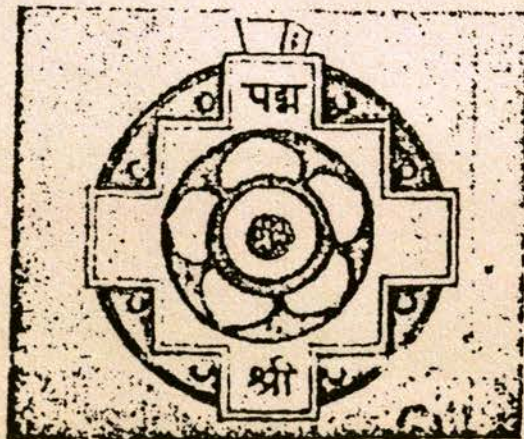
8. The names of the persons upon whom the decoration is conferred shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the Padma Shri and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

11. All persons upon whom the decoration of PADMA VIBHUSHAN (TISRA VARG) was conferred under the regulations issued with Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11) shall, for all purposes of these regulations, be deemed to be persons on whom the decoration of PADMA SHRI has been conferred by the President.

Obverse



ANNEXURE
PADMA SHRI

Reverse



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OFFICE OF THE SECRETARY TO THE PRESIDENT
NOTIFICATIONS

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New Delhi, the 8th January, 1955

No. 1-Pres./55—The President is pleased to make the following revised regulations for the award of the decoration BHARAT RATNA in supersession of those published in Notification No. 1-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11) :—

1. The decoration shall be conferred by the President by a Sanad under his hand and seal.
2. The decoration shall be in the form of a Peepul leaf, two and five-sixteenth inches in length, one and seven-eighth inches at its greatest breadth and one-eighth of an inch in thickness. It shall be of toned bronze. On its obverse shall be embossed a replica of the Sun five-eighths of an inch in diameter with rays spreading out from five-sixteenths of an inch to half an inch from the centre of the Sun, below which shall be embossed the words BHARAT RATNA in Hindi. On the reverse shall be embossed the State Emblem and motto in Hindi. The Emblem (but not the motto), the Sun and the rim shall be of platinum. The inscriptions shall be of silver gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.
4. The decoration shall be worn round the neck by a white riband two inches in width.
5. The decoration shall be awarded for exceptional service towards the advancement of art, literature and science, and in recognition of public service of the highest order.
6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.
7. The decoration may be awarded posthumously.
8. The names of the persons upon whom the decoration is conferred shall be published in the *Gazette of India* and a register of all such recipients shall be maintained under the direction of the President.
9. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the *Gazette of India*.

10. All persons upon whom the decoration BHARAT RATNA was conferred under the regulations issued with Notification No. 1-Pres./54, dated the 2nd January, 1954 (S.No. 11.) shall, for all purposes of these Regulations be deemed to be persons on whom the decoration BHARAT RATNA has been conferred by the President.

ANNEXURE
BHARAT RATNA

Obverse

Reverse



1934

27/1/55

(K. 27/1/55)

Ministry of Home Affairs

No. 2-Pres./55.—The President is pleased to make the following revised regulations for the award of the decoration PADMA VIBHUSHAN in supersession of those published in Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S. No. 11):—

1. The decoration shall be conferred by the President by a Sanad under his hand & seal.
2. The decoration shall be mainly circular in design with a geometrical pattern superimposed on the circle (as in the representative drawing in the annexure). The diameter of the circular portion of the decoration shall be one and three-fourth inches and the thickness of the decoration shall be one-eighth of an inch. The geometrical pattern shall be composed of the outer lines of a square of one and three-sixteenths inches side, centrally, placed on each side of which shall be a rectangle projecting beyond the rim thereby breaking the circumference of the circular design of the decoration. A knob shall be embossed within each of the outer angles of the geometrical pattern. There shall be a raised circular space of diameter one and one-sixteenth inches forming the centre-piece of the decoration. On the obverse a lotus flower shall be embossed in this circular space. The name of the decoration shall be embossed in Hindi, with the word PADMA placed above and the word VIBHUSHAN placed below the lotus flower. On the reverse shall be embossed the State Emblem and motto in Hindi below it. The decoration shall be of toned bronze. The rim, the edges and all embossing on either side of the decoration shall be of white gold, except the name of the decoration which shall be of silver gilt.
3. A sealed pattern of the decoration (manufactured according to the specifications described above and the drawing in the annexure to these regulations) shall be deposited and kept.

4. The decoration shall be worn by men on the left breast, suspended from a plain lotus pink riband one and a quarter inches in width; and by women on the left shoulder, suspended from a riband of the same colour and width fashioned into a bow.

5. The decoration shall be awarded for exceptional and distinguished service in any field including service rendered by Government servants.

6. Any person without distinction of race, occupation, position or sex shall be eligible for the award.

7. The decoration may be awarded posthumously.

8. The names of the persons upon whom the decoration is conferred shall be published in the Gazette of India and a register of all such recipients shall be maintained under the direction of the President.

9. The miniature of the decoration which may be worn on certain occasions by recipients shall be half the size of the Padma Vibhushan and a sealed pattern of the said miniature shall be deposited and kept.

10. The President may cancel and annul the award of the decoration to any person and thereupon his name shall be erased from the register and he shall be required to surrender the decoration and the Sanad. But it shall be competent for the President to restore the decoration and Sanad and to withdraw the orders of cancellation and annulment. The notice of cancellation or restoration in every case shall be published in the Gazette of India.

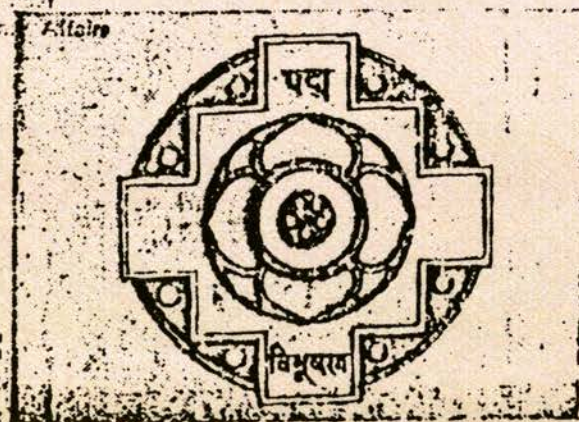
11. All persons upon whom the decoration of PADMA VIBHUSHAN (PAHELA VARG) was conferred under the regulations issued with Notification No. 2-Pres./54, dated the 2nd January, 1954 (c.f. S.No. 11), shall, for all purposes of these regulations, be deemed to be persons on whom the decoration of PADMA VIBHUSHAN has been conferred by the President.

ANNEXURE

Obverse

PADMA VIBHUSHAN

Reverse

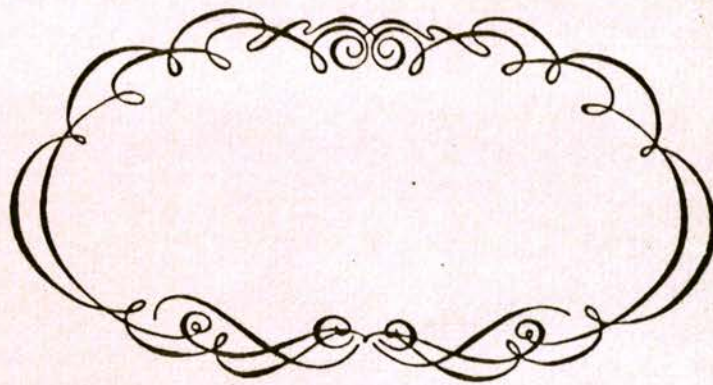


Attested by

Signature

(K. C. S. N. V. A.)

Ministry of Home Affairs



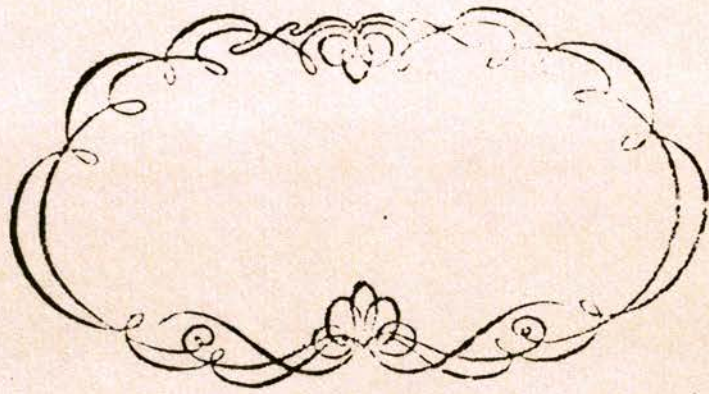
मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
भारत रत्न प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति

AKW KC 97

RECEIVED
(AVAS)
1954
Ministry of Home Affairs



मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म विभूषण प्रदान करता हूँ।

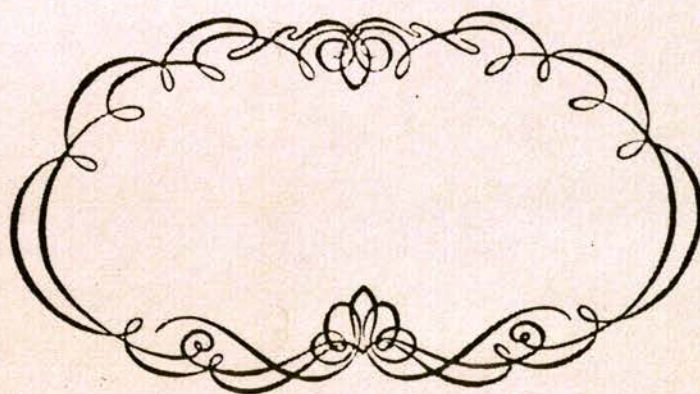
नई दिल्ली
दिनांक

राष्ट्रपति



महाराष्ट्र शासन

12/11/57
(RECEIVED)
(12/11/57)



मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म भूषण प्रदान करता हूँ।

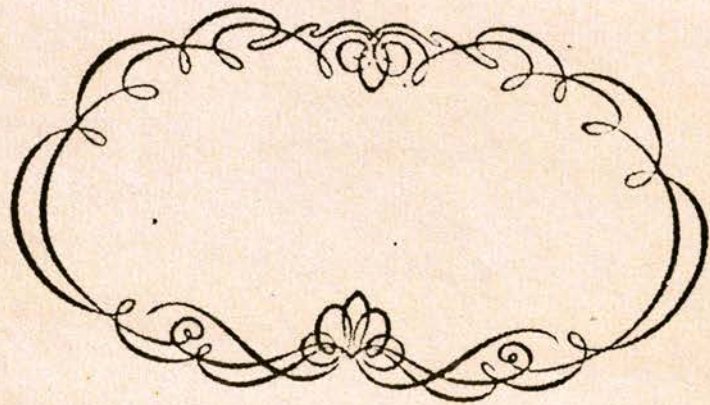
नई दिल्ली
दिनांक

राष्ट्रपति



Amended to 1/7/78





मैं, भारत का राष्ट्रपति,
आर० वेंकटरामन, व्यक्तिगत
गुणों के लिए आपके सम्मानार्थ,
पद्म श्री प्रदान करता हूँ।

नई दिल्ली
दिनांक

राष्ट्रपति



13/11/54

13/11/54

13/11/54
(VA)
13/11/54



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135

GOVERNMENT OF INDIA
PRESS INFORMATION BUREAU

PRESS NOTE

The attention of the Union Home Ministry has been drawn to the practice of using Civilian Awards such as Padma Vibhushan, Padma Bhushan and Padma Shri as titles in letter heads, invitation cards, posters, books, etc. The awards are not titles and their use along with the names of individuals is contrary to the spirit of the Constitution, which has abolished titles. It is, therefore, desirable that no Civilian Award should be affixed or prefixed with the name of the awardee to give an appearance of a title.

Union Ministry of Home Affairs
New Delhi, Chaitra 28, 1890/April 17, 1968



-.-.-.-

(Article 16 of the Constitution of India says :
(1) "No titles, not being a military or academic distinctions, shall be conferred by the State: (2) No citizen of India shall accept any title from foreign State: (3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State....").

V. P. Bhatia
(V. P. BHATIA)
Under Secretary
महामंत्री/Minister

Atul Kumar Singh
(Sd/-) *Atul Kumar Singh*
O.C. (Sd/-) *Atul Kumar Singh*
Ministry of Home Affairs

TO BE PUBLISHED IN PART I, SECTION 1 OF THE GAZETTE
OF INDIA OF SATURDAY THE 20TH AUGUST, 1977.

PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi, the 8th August, 1977.

No. 65 - Pres/77 - The President is pleased to direct that the following Civilian Awards instituted in 1955 and published in Part I, Section 1 of the Gazette of India vide President's Secretariat Notifications No.1-Pres/55, No.2-Pres/55, No.3-Pres/55 and No.4-Pres/55 dated 8th January, 1955 be cancelled:-

Bharat Ratna

Padma Vibhushan

Padma Bhushan

Padma Shri



(K. C. Madappa)
Secretary to the President

Attested true copy

[Signature]
(K. C. Madappa)
(VA)
Ministry of Home Affairs

शनिवार, दिनांक 20 अगस्त, 1977 के भारतीय राजपत्र के भाग I, खण्ड I में प्रकाशनार्थ

राष्ट्रपति सचिवालय

अधिसूचना

नई दिल्ली, दिनांक 8 अगस्त, 1977

सं० 65-प्रेज़/77 - राष्ट्रपति सहर्ष निदेश देते हैं कि 1955 में स्थापित निम्नलिखित नागरिक उपाधियाँ जिन्हें भारतीय राजपत्र के भाग I, खण्ड I में राष्ट्रपति सचिवालय की अधिसूचनाओं, सं० 1-प्रेज़/55, सं० 2-प्रेज़/55, सं० 3-प्रेज़/55 और सं० 4-प्रेज़/55, दिनांक 8 जनवरी, 1955, के अधीन प्रकाशित किया गया था, रद्द कर दी जायें :-

भारत रत्न
पद्म विभूषण
पद्म भूषण
पद्म श्री



७-८-७७ श्री. मन्मथ

(कै० सी० मन्मथ)

राष्ट्रपति के सचिव ।

Attested true copy

(K. ... 20/8/77)

Ministry of Home Affairs

TO BE PUBLISHED AS A GAZETTE OF INDIA (EXTRAORDINARY) IN PART I
SECTION 1 OF FRIDAY, THE 25TH JANUARY, 1980




PRESIDENT'S SECRETARIAT

NOTIFICATION

New Delhi, the 25th January, 1980.

No.25-Pres./80 - The President is pleased to cancel the President's Secretariat Notification No.65-Pres./77, dated the 8th August, 1977 by which the Civilian Awards 'Bharat Ratna', 'Padma Vibhushan', 'Padma Bhushan' and 'Padma Shri' were cancelled and to direct that the said Awards shall be re-instituted with immediate effect.


2. The President is also pleased to direct that the said Notification shall not be deemed to have affected in any manner whatsoever the Awards mentioned therein which were granted before the issue of that Notification.


(K.C. MADAPPA)

Secretary to the President

1/3/80

Attested from copy


(K.C. MADAPPA)
Secretary to the President
Ministry of Home Affairs

गुजरा, 25 जनवरी, 1980 के भारत के (असाधारण) राजपत्र के भाग I, खंड I में

प्रकाशनार्थ ।

राष्ट्रपति सचिवालय

अधिसूचना

नई दिल्ली, दिनांक 25 जनवरी, 1980.

संख्या 25-प्रज/80 - राष्ट्रपति, राष्ट्रपति सचिवालय को तारीख 8 अगस्त, 1977 की अधिसूचना संख्या 65-प्रज/77 को रद्द करते हैं, जिसके द्वारा 'भारत रत्न', 'पद्म विभूषण', 'पद्म भूषण', 'पद्म श्री' नागरिक उपाधियाँ रद्द की गई थीं और यह निर्देश देते हैं कि उक्त उपाधियाँ तत्काल प्रभावी रूप से पुनः स्थापित हो जाएंगी।

2- राष्ट्रपति यह भी निर्देश देते हैं कि उक्त अधिसूचना से, उसमें उल्लिखित उपाधियों की, जो उस अधिसूचना के जारी होने से पहले प्रदान की गयीं किसी भी प्रकार से प्रभावित नहीं माना जाएगा।



जे. सी. नारायण

(के० सी० मादप्पा)
राष्ट्रपति के सचिव।

Prashant

Alka Singh

1/2/80

1/2/80

STATEMENT OF MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS WITH
REGARD TO THE REVIVAL OF THE BHARAT RATNA AND PADMA AWARDS.

30-1-1980

Mr. Speaker, Sir,

The recent decision of the Government to revive the Bharat Ratna and Padma Awards has caused misgivings in some sections of the House and a doubt has been expressed in some quarters that this is not in conformity with the Constitution and in particular Article 18 thereof.

2. At the outset, I would state that the Government yields to none in its respect for the Constitution and its determination to see that the Constitution is observed not only in letter but also in spirit. But it is necessary to see what exactly is the nature of the prohibition contained in Article 18. Article 18 is one of the several Articles dealing with the right to equality. It states that no title, not being a military or academic distinction, shall be conferred by the State.

3. In order to understand the scope of this prohibition, it is necessary not only to ascertain the meaning of the word 'title', but also to have regard to the circumstances in which this Article was adopted by the Constitution-makers. The Constitution-makers had before them the provisions of other Constitutions prohibiting the grant of titles of nobility. Our Constitution-makers did intend to go further than this and to prohibit the conferment of titles which had, during the pre-Independence days, become a symbol to some extent of subordination to a foreign power. Thus, not only were hereditary titles of nobility banned, but even titles like 'Diwan Bahadur' which were expressly referred to by Shri T.T. Krishnamachari while this Article was being discussed.

4. It is clear from a reference to the proceedings of the Advisory Committee on Fundamental Rights that there was a cleavage of opinion on this point and that originally it was intended to prohibit only hereditary titles. However, it was decided to delete the word 'hereditary' and to abolish titles.

5. Nevertheless, it is significant that while proposing the deletion of the epithet 'hereditary', the mover of the amendment, Shri Masani, made it very clear that it may be 'possible for the Union to honour



AKL: LK 4/5

[Signature]
K. C. SRIVASTAVA
Secretary
Ministry of Law, Justice and Company Affairs

some of its citizens who distinguish themselves in several walks of life, like science and the arts, with other kinds of honour not amounting to titles; the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a Free India".

6. Thus, what the Constitution-makers intended to prohibit was what in common parlance is described as a prefix or an addition to the name.

7. The expression "title" has several meanings. According to well-known Lexicons in the context, it would mean an appellation attached to an individual or family in virtue of rank, function, office or attainment.

8. The award of Bharat Ratna as well as Padma Awards are not appellations. The Constitution, in letter and spirit alike, prohibit the State from enabling an individual to set himself apart from others by virtue merely of a grant from the State. There is nothing therein which forbids the State from honouring a distinguished citizen for services rendered by him to the cause of the community. It was for this purpose that these Awards were conceived of by the very same persons who played an active role in the framing of the Constitution. In reply to a Question in this House itself, the late Shri Jawaharlal Nehru made it very clear on August 25, 1954 that the Awards have no relation to titles and are merely honours conferred for distinguished service of high order and that any comparison of these with titles would not be correct.

9. In this connection, it may be mentioned that this is not the first occasion when the House had to consider the constitutionality of the National Awards. In 1969, a very senior and respected Member, Acharya Kripalani, introduced a Bill intituled The Conferment of Decorations on Persons (Abolition) Bill, seeking to abolish the Bharat Ratna and Padma Awards on the ground that by such Awards, titles were sought to be brought in by back-door methods. During the debate on this Bill, the constitutionality of these Awards was exhaustively dealt with.

It was pointed out that when the matter was first considered in 1948 by a Committee headed by that eminent jurist Sir B.N. Rau, it came to the conclusion: "The expression 'title' does not necessarily include all honours and decorations".



Handwritten signature
 (K. C. ...)
 Secretary of ...

10. It was pointed out that the basic assumption made by the mover of the Bill that the awards of these decorations violate the provisions of the Constitution was not correct. No convincing reply was given to this point and the Bill itself was negatived.

11. In this connection, it is relevant that the system of instituting Awards in 1954 was evolved and approved at a time when the deliberations of the Constituent Assembly were fresh in the minds of the people and by the very same individuals who had played an active part in the framing of and were fully imbued with the spirit of the Constitution.

12. The meetings of the Cabinet wherein this proposal was discussed were presided over by Shri Jawahar Lal Nehru who had an abiding faith in the principles of democracy, socialism and equality and had played an active role in the framing of the Constitution. It would be of interest to mention that at least four meetings of the Cabinet, which went into this question, were attended by Shri T.T. Krishnamachari, who was one of the members of the Drafting Committee of the Constitution.

13. My Hon'ble friend on the opposite side, Shri Jagjivan Ram was present at six of the meetings of the Cabinet which discussed this issue, and was himself a member of the Government which decided to institute these Awards.

14. In his statement made on the 13th July, 1977 announcing the discontinuance of these Awards, the former Prime Minister, Shri Morarji Desai, had stated that this was on the basis of the opinion of the Attorney General who had held that Bharat Ratna and the Padma Awards would fall within the prohibition of grant of titles.

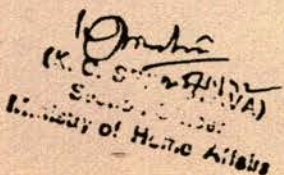
15. In view of the esteem due to the then holder of the high office of Attorney General, I have gone through his opinion with interest and respect, but am unable to share his conclusion. In his opinion, the Counsel recognised that the expression 'title' has a variety of meanings and that the meaning of the word must necessarily depend on the context in which it occurs. But singularly enough, he proceeded to construe it without recourse to the back-ground or genesis of what was being done by the Government in the past or its legislative history.



Prashant

Atty Gen
Prashant
(K. C. 25/11/77)
(K. C. 25/11/77)

.../-



18. One should not lightly infer the existence of a lacuna in the Constitution by reading it without reference to the pre-existing position and the practice in other democratic countries. Having regard to the history and object of the Article, there is no warrant for coming to the conclusion that the Constitution-makers wanted to deny to the State in India the right or - rather the duty - which other democratic States possess, namely, to recognise and to honour its most distinguished citizens.

19. Having given the matter the most careful consideration, the position which emerges is that there is no room for doubt that the Constitution, as it stands, does not prevent the State from granting recognition to a distinguished son of Mother India. An Award, decoration or a Medal to such a person is not a title which the Constitution-makers sought to interdict.



....

Prashant

Attested true copy

[Signature]
25/11/92
Ministry of Home Affairs

153
140
9
H.F.NO. 11706/92

BEFORE HON'BLE HIGH COURT OF MADHYA PRADESH : INDORE.

S.P. Anand,

120, Joara Compound, INDORE.

= Petitioner.

Vs.

Union of India, through Cabinet Secretary,

Central Government Secretariat Bldg.,

NEW DELHI.

= Respondent No. 1

[P.V. Narsimharao, Head of Council of
Ministers, & Prime Minister of India,

Central Govt. Secretariat Bldg.,

NEW DELHI.

= Respondent No. 2

Smt. Sonia Maino w/o Late Rajiv Gandhi

10, Janpat, NEW DELHI.

= Respondent No. 3

PUBLIC INTEREST LITIGATION WRIT PETITION

U/s Art. 226, read with Art. 12, 14, 21, 53, 74 etc.

of Constitution of India, read with AWARDS of

BHARAT RATNA given to parties as hereinafter

submitted:-

1. That this Petitioner has been again obliged to present this PUBLIC INTEREST LITIGATION as citizen of India, acting in BONA FIDE manner for redressing a PUBLIC INJURY which has been committed by the Respondents Nos. 1 & 2 by an act which is contrary to the CONSTITUTIONAL MANDATES ex-facie as hereinafter submitted.

2. That a good number of persons whose names are appearing in INDIA-1990 & India-1991 have been awarded an "AWARD" of "BHARAT-RATNA" which has been recorded as a CIVILIAN AWARD of the highest rank at page 912 of INDIA-1990 as the one awarded for :-

" EXCEPTIONAL WORK FOR THE ADVANCEMENT OF ART, LITERATURE & SCIENCE & IN RECOGNITION OF PUBLIC SERVICE OF THE HIGHEST ORDER. "

The INDIA 1990 & Government of India is PUBLICATION.

P.J. No. 1480/92

V. No. 12

Date of
order
Sr. No.
orderL.R.'s filed order in
office matters

Shri Satpal Anand, Petitioner in person.

Shri A.N. Chitale, Sr. Advocate appeared with
Shri B.G. Nema, for Union of India.

Heard On 1.A. No. 367/93, an application for vacating the stay order passed on 25.8.92. Parties were heard at length. The short question is whether in view of the material which has now been placed on record by the Union of India and in view of the arguments advanced on the point the stay order passed on 25.8.92 deserves to be vacated or modified.

By order dated 25.8.92 a blanket order restraining conferral of the honour of Bharat Ratna, Padma-Vibhushan, Padma-Bhushan and Padma-Shri was passed. The Union of India has filed its counter alongwith notifications regulating the conferral of the awards. It has been contended that the award is not a 'Title' falling under the purview of Article 18 of the Constitution of India but is merely a decoration in the form of a medal. The notifications state that 'Bharat Ratna' can be awarded for 'exceptional services towards the advancement of Art, Literature and Science, and in recognition of public service of the highest order'. 'Padma-Vibhushan' can be awarded for 'exceptional and distinguished service in any field including services rendered by Government Servants'. A 'Padma-Bhushan' can be awarded for 'distinguished service of a high order in



FILED AT INDORE

Versus

Date of
order with
Sr. No. of
order

Order with Signature

D.R.'s final order in
office matters

- 2 -

any field including services rendered by Government Servants'. 'Padma-Shri' can be awarded for 'distinguished services in any field including services rendered by Government Servants'. According to the Union of India, these awards do not confer a right to use the decoration as a title, as a prefix or suffix to the name of the recipient. It was further contended on behalf of the Union of India that there was neither a prima-facie case in favour of the petitioner nor the balance of convenience is in his favour. According to the learned counsel for the Union of India, there is no question of irreparable loss also being caused to anyone. Shri Satpal Anand, the petitioner, on the other hand submits that the material placed on record ^{has} not changed the situation occasioning any modification of the stay order.

Having given serious thought to the matter we are of the view that as to whether the decoration amounts to 'title', conferral of which is prohibited by Article 18 of the Constitution is the main question which will have to be decided in this petition ultimately. It is, however, clear that so far as Military and Academic distinctions are concerned, they can be conferred even if they are in the form of a title. So far as award of 'Bharat Ratna' in recognition of public service of the highest order and the

211)
Date of
order of
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office matters

- 3 -

award of 'Padma-Vibhushan', 'Padma-Bhushan' and 'Padma-Shri' for exception^{al} and distinguished service in any field, the situation is not free from doubt and the question will have to be decided after final hearing.

The main question for consideration at present is whether during the pendency of this petition Union of India should be allowed to ~~xxxx~~^{go} on conferring these awards. The argument on behalf of the Union of India is that the awards have been in vogue for a quite long time now and if, they are conferred for another year, no specific loss or injury to anyone can be complained of. On the other hand the petitioner's contention is that when there is a challenge to the constitutionality of the awards, they should not be allowed to be awarded. Having considered the pros and cons of the interim order, we are of the opinion that in view of the material placed on record it is better to leave the discretion whether to confer the awards during the pendency of this petition to the authorities concerned. The awards have not been instituted recently. They have a long history. Though, intermittently there have been no awards conferred in some of the years and actually between 1977 to 1990 they were even discontinued by a notification. The challenge to the awards is almost 40 years after their institution and

HIGH COURT OF MADHYA PRADESH JUDICIAL AT INDORE

ORDER SHEET

157
147 (212)

Versus

Date of
order with
Sr.No. of
order

Order with Signature

D.R.'s final order in
office matters

- 4 -

that weakens considerably the case for grant of an interim relief. When this Court granted an ex-parte order obviously, the notifications spelling out the nature of the award were not before the Court and it was thought that the awards are squarely covered by the prohibition contained in Article 16 of the Constitution of India. Moreover, the object of such a petition cannot be to challenge individual awards but the very institution of the awards being unconstitutional. No specific harm can be caused to anyone if the practice is continued for a year more during the pendency of the petition. We therefore do not find any justification in continuing the stay order.

However, it is necessary for us to sound a warning. It is for the Government of India to consider on its own whether it would be proper to confer these awards in the face of challenge to their constitutionality. If, we have to maintain the high standard of the awards, the Government should not think of insisting on ^{conferring the} awards despite a cloud on their constitutionality being thrown by this petition pending in the Court. It would be extremely embarrassing for the recipients of the awards who may be put in a dilemma whether to accept the award in such a situation or not. Decision either way would be difficult and painful because a citizen is not supposed to turn down conferral of

CONFIDENTIAL

Versum

Order with Signature

...his final order in
office matters

- 3 -

esteemed awards on him by the President of India and on the other hand, he cannot also escape the embarrassment of having been chosen for an award the constitutionality of which is under challenge. However, we leave it to the authorities deciding on the awards and prospective recipients whether they would like to confer or receive the awards in such a situation.

In the light of the aforesaid discussion we vacate the order dated 25.8.92.

C.C. today.

Rishye
Judge 20/1/53

216 yart
Judge

TRUE COPY

High Court of Madras
Indore Bench, Indore

20/3	1	Application received on
20/3	2	Applicant told to appear in
20/3	3	Applicant answered in
20/3	4	Application taken in evidence further in order of witnesses sent to return
20/3	5	Application received from respondent with record or without record for further or correct only inquire in
		Applicant given notice for further or correct inquire in
		Applicant given notice for further funds or value in return (1) or (2) supplied with 00
20/3	6	Copy ready on
20/3	7	Case entered in

Ex p. 913

$$C_3 = H_3$$

20-193

IN THE SUPREME COURT OF INDIA

CIVIL/CRIMINAL/ORIGINAL/APPELLATE JURISDICTION

I.A /Cr. Misc. Petition No.....of 19

SPECIAL LEAVE PETITION/WRIT PETITION [CIVIL/CRIMINAL] No.
PETITION OF APPEAL/TRANSFER PETITION [CIVIL/CRIMINAL] No.

of 19

of 19

IN THE MATTER OF:

UOD.

Petitioner [s]/Appellant [s]

VERSUS

S.P. Anand & An

Respondent [s]

INDEX

S. No.	PARTICULARS	Copies	Court Fees
1)	list of dates	1+3	
2)	T.P. with Aff.	1+3	22/-
3)	Annex. 1 to XII	1+3	24/-
4)	stay Appn.	1+3	40/-
5)	VIA	1+1	16/-
			<u>102/-</u>

FILED ON

-7 SEP 1993

Supreme Court of India

Total Rs.

Advocate for the Petitioner[s]

Appellant[s]/Respondent[s]

76, Lawyer's Chambers

Supreme Court Compound,

New Delhi-110001

Phones :

Filed on

7/9/93

179
6481/MS(A)/92
3/12/93

प्रधान मंत्री कार्यालय
PRIME MINISTER'S OFFICE

URGENT

नई दिल्ली - 110011
NEW DELHI - 110011

Subject: Constitutional validity of Bharat
Ratna and Padma series of awards -
Writ Petition filed in the Madhya
Pradesh High Court (Indore) by one
Shri S.P. Anand.

2527/93 Sub C
3/12/93

.....

Ministry of Home Affairs are requested
to kindly send urgently a status note on the
Court case mentioned above for information of
the Prime Minister.


(S.C. Agrawal)
Director

MHA (Shri M. Venkateswara Iyer, Jt. Secretary)
PMO u.o.No. 800/5/P/1/92-POL dated 02.12.93

*These files
reply placed below*
3/12
25 (Pub)
3/12
3/12
sub C

MINISTRY OF HOME AFFAIRS

Subject:- Constitutional validity of Bharat Ratna and Padma series of awards - Writ Petition filed in the Madhya Pradesh High Court (Indore) by one Shri S.P. Anand.

Will the Prime Minister's Office please refer to their U.O. No. 800/5/P/1/92-Pol dated 2.12.1993 on the subject cited above ?

2. There are two writ petitions challenging the Constitutional validity of the civilian awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri. One is pending in the Kerala High Court. The other is pending in the Madhya Pradesh High Court. All the preliminary actions in the two writs including the filing of counter-affidavits have been completed. However, it is not known yet when these writs will be taken up for hearing.

3. The issue raised in both the writs is substantially the same, namely, that the civilian awards are titles and are, therefore, violative of Article 18(1) of the Constitution. Article 18(1) of the Constitution has not been subjected to judicial review so far. Instead of different High Courts interpreting Article 18(1) of the Constitution, it would be appropriate for the apex court (i.e. the Supreme Court) to consider the issue finally and give the correct interpretation of Article 18(1) of the Constitution. With this purpose in view, a transfer petition under Article 139A of the Constitution has been filed in the Supreme Court. This was done on the advice of the Solicitor-General.

4. The transfer petition was filed on 7.9.1993. It came up for hearing before a Division Bench of the Supreme Court (comprising Justice Punchhy and Justice Jeevan Reddy) on 29.10.1993. The Hon'ble Judge decided that the transfer petition should be listed for hearing before a Division Bench presided over by the Chief Justice of the Supreme Court. The date for further hearing of the transfer petition is still awaited.

5. The Prime Minister's Office are already aware of the fact that the Madhya Pradesh High Court (Indore Bench) had passed a stay order on 25.8.1992 restraining the Government of India from giving any further civilian awards. This stay order was got vacated on 20.1.1993. However, in view of the observations made by the High Court in their order dated 20.1.1993, a decision was taken that there shall be no further announcement of these awards till the Constitutional issue involved is finally settled by the Courts. A Press Note was also issued to this effect on 23.1.1993. A copy of the Madhya Pradesh High Court's judgement dated 20.1.1993 and a copy of the Press Note issued are enclosed.

6. A final decision by the Courts on the Constitutional validity of the civilian awards is not likely to be obtained in the near future. It will take time. This Ministry is, therefore, considering whether the decision taken in January, 1993 not to make any further announcement of these awards till the Constitutional issue is settled by the Courts, should be reversed now, and what will be the repercussions of such reversal. The issues involved require discussion at the highest levels. The case is under submission already.

M. Venkateswara Iyer
(M. Venkateswara Iyer) 3/12/93
Joint Secretary

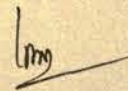
Prime Minister's Office (Shri S.C. Agrawal, Director)
MHA ID No. 1/25/92-Public dated 3.12.1993.

Serial No. 16/93
3/12/93

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MINISTRY - OF - HOME - AFFAIRS -

Cheque No.235877 dated 6-9-1993 was obtained from Cash I Section for issue to the Central Agency Section, Ministry of Law, Justice & Company Affairs, Department of Legal Affairs towards court fee and other miscellaneous expenses. The same has been handed over to the Central Agency Section and a receipt No.06-D dated 7-9-1993 obtained from the Central Agency Section is enclosed for record in the Cash I Section.


Jc (V.P. Bhatia)
Under Secretary/1-11-93.

S.O. - Cash / I - Section.

Recd
B. Singh
17/11

जी० ए० आर० ६
G.A.R. 6
(नियम 22(i) देखिए)
[See Rule 22(i)]

सं० ०६ D
No.

रसीद
RECEIPT
प्रतिपण (कार्यालय प्रति)
Counterfoil (Office Copy)

दिनांक 19
Date: 7.9.19.93

से
Received from U.S. m/o. Home Affairs, New York
पत्र संख्या के साथ तारीख NEW YORK
Letter No. dated 6.9.19.93
रु० की राशि
the sum of Rupees 1000/- (One thousand only)
नकद/चैक/बैंक ड्राफ्ट द्वारा
In cash/By Cheque/ by bank draft 2358.77 dt 6.9.93
के संदाय के कारण
on account of Court Fees

प्राप्त की
in payment of
U.M.I. v/s Sh. S.P. Prasad & Balaji
आयक्षर Rajaram
Initials

रु०
Rs. 1000/-

पदनाम
Designation
Drawing Disbursing Officer
Central Agency Section
M/o Law & Justice
Deptt. of Legal Affairs

V.P. BHATIA
UNDER SECRETARY (PUBLIC)
TELE : 3012421

D.O. No. 1/25/92-public

Dated : 29.10. 1993.

Dear Shri Parameswaran,

Reference our discussion today morning and as per your desire, I am sending herewith six copies of the judgement dated the 8th January, 1993 of the Supreme Court of India in the matter of Union of India Vs. S.P. Anand & Anr. per bearer of this letter.

2. I would like to invite your attention to my d.o. letter of even number dated the 6th September, 1993 requesting therein to send a formal receipt in token of receipt of the cheque for Rs.1000/- issued in favour of Central Agency Section, Ministry of Law, Justice & Company Affairs, Department of Legal Affairs towards Court fee and other miscellaneous expenses. However, the said receipt has not yet been received by me. I shall be grateful if the same is sent per bearer of this letter.

With warm regards,

Yours sincerely,

V.P. Bhatia
V.P. Bhatia

29/10/93
Shri P. Parameswaran,
Deputy Government Advocate,
Central Agency Section,
Ministry of Law, Justice & Company Affairs,
Department of Legal Affairs,
Supreme Court of India Building,
New Delhi.



SUPREME COURT OF INDIA

LIST OF BUSINESS FOR FRIDAY THE 29th OCTOBER, 1993

CHIEF JUSTICE'S COURT

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE S. MOHAN

PART-A MISCELLANEOUS MATTERS

I.A., CMPS, CRLMPS ETC.

1. I.A. NO. 1 IN C.A.No.3850/93

XIA AFTER NOTICE-I

REGIONAL DIRECTOR, E.S.I. CORPORATION

Vs. POPULAR AUTOMOBILES

(FOR STAY)

8,28,31

2ND LISTING

MR. V.J. FRANCIS

2. I.A. NO. 1 IN & SLP(C).../93

XVII

A.N.RAJU

Vs. APITC LTD.

S.(48) / /)CC 22234

(FOR EXEMPTION FROM PAYING COURT FEE)

1ST LISTING

PETITIONER-IN-PERSON

3. I.A. NO. 1 IN W.P.(C) .../93

XA

SAMIR KUMAR DEY AND ORS

Vs. UNION OF INDIA AND ORS

S.(43) / /)CC 22416

(FOR EXEMPTION FROM PAYING COURT FEE)

1ST LISTING

MR. H.K. PURI

4. I.A. NO. 1 IN W.P.(C) .../93

XA

JAWAHARLAL DAS & ORS.

Vs. STATE OF WEST BENGAL & ORS.

S.(43) / /)CC 22417

(FOR EXEMPTION FROM PAYING COURT FEE)

MR. ANIS SUMRAWARDY

CONTD...2/-

Friday October 29, 1993

COURT NO. 6

HON'BLE MR. JUSTICE M.M. PUNCHHI
HON'BLE MR. JUSTICE B.P. JEEVAN REDDY

PART-A MISCELLANEOUS MATTERS

I.A., CMPS, CRLMPs ETC.

1. I.A. NO. 3-5 IN SLP(C) NO. 15154/90
XVI ADJD-I

20. 0. 0
15TH LISTING

SHRI TARA CHAND AGGARWALA & ANR
Vs. SHRI BHAGIRATH AGGARWALA
(FOR DIRECTIONS)

MR. SUDARSH MENON
MR. P.H. PAREKH

FRESH MATTERS

2. T.P.(C) No. 810/93 (FOR PREL. HEARING)

XVI FRESH-H

S.(26)(13/09/93)

1ST LISTING

RAMAN
Vs. KRISHAN KUMAR

(WITH APPLN.(S) FOR EX-PARTE STAY)

MR. K. RAM KUMAR

3. W.P(C) NO. 712/93 (FOR PREL. HEARING)

X FRESH-O

S.(26)(14/09/93)

1ST LISTING

AMAR SINGH & ORS.

Vs. GURDIP SINGH & ORS.

MR. P. NARASIMHAN

4. SLP(C).../93 FAIYAZ HUSSAIN & ANR.

XI FRESH-O

S.(18)(13/09/93) CC 22075

1ST LISTING

Vs. DISTT JUDGE, BIJNOR & ORS.

WITH I.A. NO. 1 (APPLN.(S) FOR C/DELAY
IN FILING SLP)

MS. BIRAJ TIWARI

5. SLP(C).../93 JAGDISH NARAIN

XV FRESH-O

S.(18)(13/09/93) CC 22078

1ST LISTING

Vs. GENDI BAI & ORS.

WITH I.A. NO. 1 (APPLN.(S) FOR C/DELAY
IN FILING SLP)

MS. PRATIBHA JAIN

6. SLP(C) NO. 15041/93 P. NEELAKANTAN THAMPI

XII FRESH-H

S.(18)(13/09/93)

1ST LISTING

Vs. C. VICTOR AND ORS

(WITH APPLN.(S) FOR EX-PARTE STAY)

MR. R. AYYAN PERUMAL

7. SLP(C).../93 U.O.I. & ORS.

XII FRESH-O

S.(18)(13/09/93) CC 22130

1ST LISTING

Vs. MEENA SUBRAMANIAM & ORS.

WITH I.A. NO. 1 (APPLN.(S) FOR C/DELAY
IN FILING SLP)

MR. S.N. TERDOL

8. SLP(C).../93 JAGNADAN SINGH

IVS FRESH-O

S.(18)(13/09/93) CC 22156

1ST LISTING

Vs. SUPDT. CANAL OFFICER, FEROZEPUR & ORS.

WITH I.A. NO. 1 (APPLN.(S) FOR C/DELAY
IN FILING SLP)

MRS. REKHA PALLI

185
Friday October 29, 1993

COURT NO. 6 CONTD....

9. SLP(C)No.15029/93 HARBHAJAN SINGH & ANR.

IVB FRESH-H
S.(18)(13/09/93)

1ST LISTING

Vs. F.C.I. & ORS.

(WITH APPLN.(S) FOR EXEMPTION FROM
FILING C/C OF THE IMPUGNED JUDGMENT
AND EX-PARTE STAY)

MR. K.V. MOH

10. SLP(C)No.15035/93 RAM BADAN SANKAR AND ORS

XVI FRESH-O

S.(18)(13/09/93)

1ST LISTING

Vs. UNION OF INDIA AND ORS

MR. DEBA PRASAD MUKHERJEE
M/S FOX MANDAL & CO.(CAVEAT R)

56-
TIS
11. T.P.(C) No.811-12/93 (FOR PREL. HEARING)

XVI FRESH-H

S.(18)(14/09/93)

1ST LISTING

UNION OF INDIA

Vs. S.P. ANAND & ANR.

(WITH APPLN.(S) FOR EX-PARTE STAY)

MR. P. PARMESWARAN

12. SLP(C)No.15085/93 U.P. AVAS EVAM VIKAS PARISHAD

XI FRESH-O

S.(18)(14/09/93)

1ST LISTING

Vs. NEETA & ORS.

MR. P.N. GUPTA
MR. E.C. AGRAWALA(CAVEATOR)

13. SLP(C)No.15057/93 U.P. AVAS EVAM VIKAS PARISHAD

XI FRESH-O

S.(18)(14/09/93)

1ST LISTING

Vs. RAMESH KUMAR & ORS

MR. P.N. GUPTA

14. SLP(C).../93 BABU RAM BALAK RAM & ORS.

IVB FRESH-O

S.(18)(14/09/93)CC 22126

1ST LISTING

Vs. STATE OF HARYANA & ORS.

WITH I.A. NO. 1(APPLN.(S) FOR C/DELAY
IN FILING SLP)

MR. N.D. GARG

15. SLP(C).../93 RAMAKRISHNA N.BHAT & ANR.

IVA FRESH-O

S.(18)(14/09/93)CC 22129

1ST LISTING

Vs. NARASIMHA NARAYANA BHAT

WITH I.A. NO. 1(APPLN.(S) FOR C/DELAY
IN FILING SLP)

MR. P. MAHALE

AFTER NOTICE/ADJOURNED MATTERS ETC.

16. SLP(C)No.2804/87 SPECIAL LAND ACQN. OFFICER

IVA AFTER NOTICE-K

29, 0, 0

4TH LISTING

Vs. MALLAAPPA F. MALLUR OF ASUNDI

MR. M. VEERAPPA

CONTD...33/-

23/11/93

MINISTRY OF HOME AFFAIRS

Subject: Constitutional validity of the Civilian Awards of Bharat Ratna etc. - Transfer Petition in the Supreme Court.

The Deputy Government Advocate rang up today to inform me that the Transfer Petition filed in the Supreme Court, for the transfer of the two writ petitions pending in the High Courts of Kerala and Madhya Pradesh challenging the Constitutional validity of the Civilian Awards, will be listed for hearing on 17th January, 1994. The Deputy Government Advocate also informed me that due to other pre-occupations it will not be possible for the Chief Justice to hear the transfer petition earlier.

For information.

H.S. may also kindly be informed.

M. Venkateswara Iyer
(M. Venkateswara Iyer)
Joint Secretary (A)
December 13, 1993.

AS(AES)

H.S.

D
13/12

HM *mla* *Qura*
18/12 18/12

P. keep on informed

AS(AES)

Q
17/12

J S/A
17/12

acc
17/12/93

air (cont/vig)
20/12
ms (P/h)

lm
23/12/93

To me

35288/2004/93
20/12

9488
17/12

6712/55140/93
17/12

F-5004/182/93
14/12/93

4951/4693-HMP
14/12

2692/93Potic
23/12/93

No Bharat Ratna or Padma titles for second year in row

by Ashwini Sarin

NEW DELHI - For the second year running there will be no Bharat Ratna or Padma awardee on the occasion of Republic Day. These annual national awards have been embroiled in litigation.

The controversy began in August 1992 when a petition was filed in the Madhya Pradesh High Court bench at Indore questioning the Constitutional validity of these honours as the Constitution had abolished all titles. The petition came at a time when the government was in the process of finalising the names of 1993 Padma awardees. Another petition was filed in Kerala but the court did not grant a stay.

Even though the court had vacated the stay on the Indore petition in January 1993, it suggested that it would be better if the Constitutional validity of these awards was examined. Accordingly, the government decided to withhold the

announcement of 1993 Padma awards and moved the Supreme Court in September 1993. A division bench of the Supreme Court heard the government on this in October but ruled that the matter be placed before the Chief Justice's court. The case is yet to come up there.

Many state governments and other organisations who had approached the honours and awards cell of Union Home Ministry with their recommendations were advised that the government was not in a position to take a final decision on the awardees in the light of the court cases.

According to government sources the half-hearted approach on the government's part in this regard spoke volumes about the state to which these awards have been reduced over the years. "The Padma awards which were considered coveted national honours have lost their charm

and were being treated like any other government commendation by the ruling party and bureaucrats," a top officer of the Home Ministry said. "That is why no one has bothered to expedite the matter in the court when it is known to everyone that Padma Awards are announced every year on Republic Day since the time they were instituted in 1954. The President confers these honours at a special investiture in the ornate Ashok Hall of Rashtrapati Bhawan."

However, the government was woken up this year by political supporters of some aspirants who were keen to get their names forwarded for Padma Shri. The awardees are selected by the Prime Minister's office after initial screening by a committee comprising top government secretaries, headed by the Cabinet Secretary and overseen by the Home Minister himself.

Indian Express dt 29.12.93

*Recd
6.1.94
US (Pulley)*

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FAX MESSAGE

From

M. Venkateswara Iyer,
Joint Secretary,
Ministry of Home Affairs,
New Delhi-110001.

✓ To

Shri A.K. Chitale,
Senior Advocate,
New Delhi.
(FAX NO. 2225735)

No. 1/25/92-Public

Dated 12.1.1994

Understand M.P.No.1400/92 filed by Shri S.P. Anand is coming up for hearing tomorrow before the Hon'ble High Court of Madhya Pradesh, Indore Bench.

2. Government of India have filed a transfer petition in the Supreme Court under Article 139A of the Constitution for the transfer of aforesaid petition before the Madhya Pradesh High Court and a similar petition before the Kerala High Court. Issue involved in both the writs in the High Courts is substantially the same. Transfer petition was filed in the Supreme Court on 7.9.1993. Transfer petition came up for hearing on 29.10.1993 before a Division Bench comprising two Judges. Hon'ble Judges decided that the petition should be listed before a Division Bench presided over by the Chief Justice of India. It is learnt from the Office of the Solicitor-General and from the Government Advocate that the transfer petition is being listed for hearing before the Chief Justice of India on 17.1.1994.

3. In the circumstances kindly seek adjournment. Government have not reversed the decision taken in January, 1993 not to announce the Padma Awards till the Constitutional issue is resolved. Copy of Press Note issued on 23.1.1993 is enclosed.

Regards.

Chit
12/1
1115 HRS

us (Puley)

M. Venkateswara Iyer
(M. Venkateswara Iyer)
Joint Secretary (A)

PRESS NOTE

Subject:- Padma Awards 1993.

The constitutionality of the Civilian Awards of Bharat Ratna, Padma Vibhushan, Padma Bhushan and Padma Shri has been challenged in two of the High Courts. One of the High Courts had passed an ex parte stay order restraining the Government of India from conferring these Awards. Although the Court has since been pleased to vacate the stay order, the main issue, namely, whether these Awards are violative of the Constitution is yet to be decided. In this situation, Government have decided that till such time as the Constitutional issue is finally resolved in the Courts, there shall be no announcement of these Awards.

Issued on 23-1-1993

Pratap Kumar

Dolhi

190

302

MESSAGE CONFIRMATION

01-12-94 11:29

PHONE NUMBER : 91 11 2225735
SESSION NO. : 287
PAGES : 02
START TIME : 01-12-94 11:25
ELAPSED TIME : 03' 11"
TYPE : STANDARD
MODE : 4800/FINE/MH
RESULTS : O.K

191

FAX MESSAGE

From

M. Venkateswara Iyer,
Joint Secretary,
Ministry of Home Affairs,
New Delhi-110001.

To

Shri A.K. Chitale,
Senior Advocate,
New Delhi.
(FAX No. 2225735)

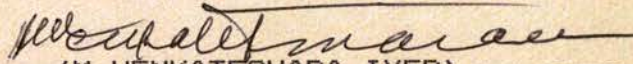
No. 1/25/92-Public

Dated 12.1.1994

Further to FAX sent earlier in the day following documents are also faxed :-

- (1) Copy of D.O.No.55/94/U/CAS dated 12 January, 1994 from Additional Government Advocate regarding Transfer Petition in the Supreme Court; and
- (2) Extract from Advance List of Matters to be listed on Monday, 17 January, 1994; see item 415.

Regards.


(M. VENKATESWARA IYER)
JOINT SECRETARY (A)



P. Parameswaran
Addl. Govt. Advocate.

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D.O.No.55/94/U/CAS/

भारत सरकार
GOVERNMENT OF INDIA
विधि, न्याय और कम्पनी कार्य मंत्रालय
MINISTRY OF
LAW, JUSTICE & COMPANY AFFAIRS
विधि कार्य विभाग
DEPARTMENT OF LEGAL AFFAIRS
केन्द्रीय अभिकरण अनुभाग
CENTRAL AGENCY SECTION
Dt. 12th Jan. 1994.

Dear Shri Bhatia,

-Sub: T.P. No.811-12/93
Union of India V/S S.P. Anand & ~~anr.~~

...

The above mentioned matter was listed before a Bench consisting of Hon'ble Mr. Justice H.M. Punchi and Hon'ble Mr. Justice B.P. Jeevan Reddy in the Hon'ble Supreme Court as Item No.11 on 28th October '93 for hearing. Their Lordships were pleased to direct to list the matter before a Bench presided over by the Learned Chief Justice of India. The Registry has fixed the matter on 17th January 1994 and the matter is listed as item No.415 in the advance list No.435.

This is for your kind information and necessary action.

With regards,

(P. Parameswaran)

Shri V.P. Bhatia,
Under Secretary (Pub. & Vig.)
Ministry of Home Affairs
North Block
New Delhi



SUPREME COURT OF INDIA

MISCELLANEOUS MATTERS (INCLUDING FRESH MATTERS) TO BE LISTED ON MONDAY THE 17th JANUARY 1994

LIST NO. AL/ 435

-45-

AL/ 435 CONTD.

411. T.P. (C) No. 295-96/93 SAMSUDDIN SHAH & ANR.
XVI AFTER NOTICE-H Vs. BINOD BEHARI DHAL & ANR.
8,23,80 (WITH APPLN. (S) FOR STAY)
10TH LISTING

MR. D.P. MOHANTY
MRS SARLA CHANDRA

412. T.P. (C) No. 697/93 ANITA RANI
XVI AFTER NOTICE-H Vs. ANIL KUMAR
30,31, 0 (WITH APPLN. (S) FOR STAY)
8TH LISTING
NOT TO BE LISTED BEFORE : 38, 0

M/S JAIN HANSARI & CO.

413. T.P. (C) No. 731/93 (FOR PREL. HEARING)
XVI MS-H KALPANABEN DILIP KUMAR SHARMA
Vs. DILIPKUMAR KANYALAL SHARMA
8. (16) (20/07/93)
2ND LISTING

MR. K. SHARDA DEVI

414. T.P. (C) No. 795/93 NISTALA SURYANARAYAN AMMA
XVI AFTER NOTICE-H Vs. NISTALA SATYA MOHAN
20,29, 0 (WITH APPLN. (S) FOR STAY)
4TH LISTING

MR. C.B. SRINIVASA RAO

415. T.P. (C) No. 811-12/93 (FOR PREL. HEARING)
XVI MS-H UNION OF INDIA
Vs. S.P. AHAND & ANR.
8, 0, 0 (WITH APPLN. (S) FOR EX-PARTE STAY)
3RD LISTING

MR. P. PARNESWARAN

416. T.P. (C) No. 824/93 MANJU GUPTA
XVI AFTER NOTICE-H Vs. YOGESH KUMAR
15,24, 0 (WITH APPLN. (S) FOR STAY)
2ND LISTING

MR. S. MURALIDHAR

417. T.P. (C) No. 833/93 NEETA KHANNA
XVI AFTER NOTICE-H Vs. ARUN KHANNA
20,29, 0 (WITH APPLN. (S) FOR STAY)
3RD LISTING

MR. PREM MALHOTRA

418. T.P. (C) No. 834/93 JAISHREE HOOKHERJEE
XVI AFTER NOTICE-H Vs. SAHODIPAN HOOKHERJEE
15,24, 0 (WITH APPLN. (S) FOR STAY)
2ND LISTING

MRS V.D. KHANNA

419. T.P. (C) No. 877/93 (FOR PREL. HEARING)
XVI MS KANTI SHARMA
Vs. MAHESH CHAND SHARMA
8. (26) (15/11/93) (WITH APPLN. (S) FOR EXEMPTION FROM
2ND LISTING FILING O.T. AND EX-PARTE STAY)

MR. CHANDER SHEKHAR ASH

420. T.P. (C) No. 978/93 (FOR PREL. HEARING)
XVI FRESH-H SUMAN BALA
Vs. JYOTI KUMAR ARORA
8. (26) (23/11/93) (WITH APPLN. (S) FOR EX-PARTE STAY)
1ST LISTING

MR. R.C. KAUS

195

D.O.No.55/94/U/CAS/



P. Parmeswaran
Addl. Govt. Advocate.

भारत सरकार
GOVERNMENT OF INDIA
विधि, न्याय और कम्पनी कार्य मंत्रालय
MINISTRY OF
LAW, JUSTICE & COMPANY AFFAIRS
विधि कार्य विभाग
DEPARTMENT OF LEGAL AFFAIRS
केन्द्रीय अभिकरण अनुभाग
CENTRAL AGENCY SECTION
Dt. 12th Jan. 1994.

Dear Shri Bhatia,

-Sub: T.P. No.811-12/93
Union of India V/S S.P. Anand & ~~Ans.~~

...

The above mentioned matter was listed before a Bench consisting of Hon'ble Mr. Justice M.M. Punchi and Hon'ble Mr. Justice B.P. Jeevan Reddy in the Hon'ble Supreme Court as Item No.11 on 29th October '93 for hearing. Their Lordships were pleased to direct to list the matter before a Bench presided over by the Learned Chief Justice of India. The Registry has fixed the matter on 17th January 1994 and the matter is listed as item No.415 in the advance list No.435.

This is for your kind information and necessary action.

With regards,


(P. Parmeswaran)

Shri V.P. Bhatia,
Under Secretary (Pub. & Vig.)
Ministry of Home Affairs
North Block
New Delhi

126/94/PUBLIC
12/1/94
To me.